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THESIS

**IMPECCABLE TIMING: THE POLITICAL EFFICIENCY
OF PRC-U.S. SURVEILLANCE CONFRONTATIONS**

by

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SURVEILLANCE CONFRONTATIONS**

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ABSTRACT

This thesis investigates several potential drivers of surveillance confrontations involving United States' assets on the People's Republic of China's maritime periphery, by exploring encounters such as the April 2001 EP-3 and the March 2009 USNS *Impeccable* (T-AGOS-23) incidents. The evidence herein suggests that the 2001 and 2009 confrontations were most likely driven by issue elevation, in which the PRC's maritime forces were given the charge to opportunistically challenge U.S. maritime surveillance operations during periods of enhanced political efficiency. These encounters were likely part of broad efforts to elevate maritime sovereignty and surveillance issues during periods in which U.S. surveillance norms were perceived to be most vulnerable to political challenge. Potential secondary drivers of the PRC's behavior are also woven through this assessment.

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TABLE OF CONTENTS

I.	OVERVIEW	1
A.	INTRODUCTION.....	1
B.	RESEARCH QUESTIONS.....	1
C.	IMPORTANCE.....	1
D.	THESIS	2
E.	LITERATURE REVIEW	3
1.	Incident Analysis.....	4
2.	Domestic Analysis	6
3.	International Analysis	7
F.	OVERVIEW.....	10
II.	PRC-U.S. MARITIME DEVELOPMENT (TO 2001)	11
A.	INTRODUCTION.....	11
B.	PRC-U.S. MARITIME RELATIONS TO 2001.....	11
1.	Historical Circumstances	11
2.	International Norms	12
3.	Bilateral and Multilateral Initiatives	15
4.	Recent Dynamics	16
C.	CONCLUSION	18
III.	USNS <i>BOWDITCH</i> AND EP-3 CASE STUDY (2001).....	19
A.	INTRODUCTION.....	19
B.	USNS <i>BOWDITCH</i> INCIDENT (MARCH 23, 2001)	19
1.	U.S. Perceptions	19
2.	PRC Perceptions	21
C.	EP-3 INCIDENT (APRIL 1, 2001)	21
1.	U.S. Perceptions	22
2.	PRC Perceptions	25
D.	CONCLUSION	27
IV.	GEOPOLITICAL CASE STUDY (EARLY 2001)	29
A.	INTRODUCTION.....	29
B.	CORRELATIVE GEOPOLITICAL DRIVERS (EARLY 2001).....	29
1.	Domestic Pressures	29
2.	Issue Elevation.....	30
3.	Political Reaction	33
4.	Political Linkage.....	35
C.	A DETERRENT TO ADVERSITY: THE PRC’S WTO ACCESSION (2001).....	37
D.	CONCLUSION	39
V.	PRC-U.S. MARITIME DEVELOPMENT (2001–2009)	41
A.	INTRODUCTION.....	41
B.	PRC-U.S. MARITIME RELATIONS (2001–2009)	41

1.	International Norms	41
2.	Bilateral and Multilateral Initiatives	42
3.	Recent Dynamics	44
C.	CONCLUSION	45
VI.	USNS <i>VICTORIOUS</i> AND <i>IMPECCABLE</i> CASE STUDY (2009)	47
A.	INTRODUCTION.....	47
B.	USNS <i>IMPECCABLE</i> INCIDENT (MARCH 5–8, 2009)	47
1.	U.S. Perceptions	47
2.	PRC Perceptions	49
C.	USNS <i>VICTORIOUS</i> INCIDENT (MARCH 4 - MAY 1, 2009).....	51
1.	U.S. Perceptions	51
2.	PRC Perceptions	53
D.	CONCLUSION	53
VII.	GEOPOLITICAL CASE STUDY (EARLY 2009)	57
A.	INTRODUCTION.....	57
B.	CORRELATIVE GEOPOLITICAL DRIVERS (EARLY 2009).....	57
1.	Domestic Pressures	57
2.	Issue Elevation.....	59
3.	Political Reaction	63
4.	Political Linkage.....	65
C.	A DETERRENT TO ADVERSITY: THE GREAT RECESSION (2009).....	67
D.	CONCLUSION	69
VIII.	COMPARATIVE ANALYSIS OF SURVEILLANCE CONFRONTATIONS ..	71
A.	INTRODUCTION.....	71
B.	COMPARATIVE DRIVER ANALYSIS	71
1.	Operational Opportunism.....	72
2.	Domestic Pressure	76
3.	Issue Elevation.....	77
4.	Political Reaction	80
5.	Political Linkage.....	81
C.	CONCLUSION	83
IX.	RECENT PRC-U.S. MARITIME DEVELOPMENTS	85
A.	INTRODUCTION.....	85
B.	FIVE RECENT TRENDS IN PRC-U.S. MARITIME RELATIONS.....	85
1.	U.S. Strategic Rebalance	85
2.	PRC Peripheral Maritime Tensions.....	86
3.	PRC Institutional Integration of Its Maritime Forces.....	88
4.	PRC Projection of Maritime Forces Outside of Asia	89
5.	Growing PRC-U.S. Military To Military Relations.....	90
C.	CONCLUSION	91
X.	U.S. MILITARY RECOMMENDATIONS.....	93
A.	INTRODUCTION.....	93

B.	MILITARY IMPLICATIONS	93
C.	ARRAY OF U.S. MILITARY OPTIONS	94
1.	Strategic Options.....	94
2.	Operational Options	96
3.	Tactical Options	98
D.	CONCLUSION	99
LIST OF REFERENCES		101
INITIAL DISTRIBUTION LIST		115

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LIST OF FIGURES

Figure 1.	PRC-U.S. Surveillance Confrontation Literature	4
Figure 2.	USNS <i>Bowditch</i> and PLAN Jianghu III Frigate.	20
Figure 3.	U.S. Navy EP-3 on Hainan Island and a PLAN-F-8II.	24
Figure 4.	Photo of the EP-3 being loaded onto a Russian AN-124.....	25
Figure 5.	PRC vessels blocking <i>Impeccable</i> and attempting to snag array.....	49
Figure 6.	USNS <i>Victorious</i>	52
Figure 7.	Map of 2001 and 2009 Surveillance Confrontations.	75

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LIST OF TABLES

Table 1.	Chronology of Early 2001 PRC-U.S. Relations.	40
Table 2.	PRC-U.S. Surveillance Confrontations.....	55
Table 3.	Chronology of Early 2009 PRC-U.S. Relations.	70

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LIST OF ACRONYMS AND ABBREVIATIONS

ADIZ	Air Defense Identification Zone
AGI	Auxiliary General Intelligence
APEC	Asia-Pacific Economic Cooperation
ASEAN	Association of Southeast Asian Nations
CMC	Central Military Commission
CMS	China Maritime Surveillance service
CMSD	“Military and Security Developments Involving the PRC”
CNO	Chief of Naval Operations
COLREGS	International Regulation for Preventing Collisions as Sea
CUES	Code For Unalerted Encounters at Sea
DOD	Department of Defense
Dow	Dow Jones Industrial
EEZ	Exclusive Economic Zone
FLEC	Fisheries and Law Enforcement Command
GATT	General Agreement on Tariffs and Trade
HADR	Humanitarian Assistance and Disaster Relief
H.Con.Res.	House of Congress Resolution
ICAO	International Civil Aviation Organization
INCSEA	Incidents at Sea Agreement
LT	Lieutenant
MFN	Most Favored Nation
MMCA	Military Maritime Consultative Agreement
MP	Maritime Patrol
MPA	Maritime Patrol Aircraft
MPS	Ministry of Public Security
NATO	North Atlantic Treaty Organization
NDA	National Defense Authorization
NDAA	National Defense Authorization Act
NGO	Non-Governmental Organization
NPC	National People’s Congress

PACOM	Pacific Command
PAP	People's Armed Police
PLA	People's Liberation Army
PLAN	People's Liberation Army Navy
PNTR	Permanent Normal Trading Relations
PRC	People's Republic of China
RIMPAC	Rim of the Pacific Exercise
SOA	State Oceanographic Agency
TRA	Taiwan Relations Act
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea
UNCHR	United Nations Commission on Human Rights
U.S.	United States
USNS	United States Naval Ship
WTO	World Trade Organization

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I. OVERVIEW

A. INTRODUCTION

Surveillance confrontations on the People's Republic of China's (PRC) maritime periphery toward the United States (U.S.), such as the April 2001 EP-3 and March 2009 USNS *Impeccable* (T-AGOS-23) incidents, have been the subject of much debate. Literature related to these encounters can be grouped into the three broad categories of incident specific, domestic, and international analysis. Across these themes, observers highlight the “who, what, where, why, how,” and the consequences of these engagements, but largely neglect the “when.”

U.S. surveillance operations on the PRC's maritime periphery have been a standing dispute, particularly since the late 1990s, but the continuous challenge of these activities would likely have been detrimental to bilateral relations. In 2001, the April 1 EP-3 collision occurred within one week of a March 23 incident involving USNS *Bowditch* (T-AGS-62). After nearly eight years, in which only one similar encounter transpired, harassment against USNS *Victorious* (T-AGOS-19) and USNS *Impeccable* reemerged one day apart, on March 4 and 5, 2009, respectively. The synchronization of these two groups of incidents and their alignment to specific geopolitical pressures warrant greater analysis.

B. RESEARCH QUESTIONS

This thesis seeks to answer three major questions: First, what potential drivers of the PRC's behavior are present surrounding its surveillance confrontations with U.S. assets? Second, of these drivers, which were most likely the primary instigators of the PRC's behavior? Third, based upon the likely origins of this behavior, how can the U.S. mitigate this future dynamic?

C. IMPORTANCE

Over the past three decades, the PRC has attained exceptional economic growth, significant military modernization, and increased political influence around world. A

rising PRC amidst established U.S. hegemony creates an inherent level of tension that must be comprehended, anticipated, and moderated. Understanding the PRC's behavioral drivers underlying its surveillance confrontations enables better management of this complex relationship by the United States through the development of mitigation strategies.

D. THESIS

PRC-U.S. maritime developments, each incident's specific narratives, and the surrounding geopolitical conditions are all assessed for potential drivers of the surveillance confrontations. The analysis presented in this thesis suggests that various contributing factors play a role: operational opportunism, domestic pressures, issue elevation, political reaction, and political linkage. These factors draw on a range of supporting and conflicting evidence as instigators of the PRC's behavior. Each category is defined:

- *Operational opportunism*—surveillance confrontation as a local commander's opportunistic initiative.
- *Domestic pressures*—surveillance confrontation as an initiative in support of domestic objectives.
- *Issue elevation*—surveillance confrontation as a strategically timed initiative to politically elevate maritime surveillance and sovereignty issues.
- *Political reaction*—surveillance confrontation as an adverse reaction to separate political pressures.
- *Political linkage*—surveillance confrontation as an initiative to create political leverage toward separate issues.

Several drivers likely shaped each incident; however, the most important drivers of these confrontations were issue elevation and operational opportunism in early 2001 and 2009, while the 2002 incident was most likely limited to operational opportunism. Since the continuous challenge of U.S. surveillance operations would likely have been detrimental to bilateral relations, it is most likely that these activities are generally contested during specific periods when surveillance confrontations possess enhanced

political efficiency. Aligned to this claim in early 2001 and 2009, issue elevation and operational opportunism likely converged under a strategy in which the PRC's maritime forces were given the charge to opportunistically challenge U.S. maritime surveillance assets during each period. Issue elevation likely emerged because the PRC perceived U.S. surveillance norms to be under increased susceptibility to political challenge early into both presidencies; this perception of political vulnerability was likely the basis of the PRC's initiation of opportunistic harassment strategies. Secondary motives from domestic pressures, political reactions, and political linkages were also present in both 2001 and 2009; however, they cannot be linked to these confrontations with any degree of certainty. Based upon this dynamic, evaluating, preparing, and implementing a comprehensive plan prior to periods projected to be vulnerable to issue elevation may avert surveillance confrontations, their escalation, and conflict, protecting U.S. military, diplomatic, and national interests.

E. LITERATURE REVIEW

The current literature assessing PRC-U.S. surveillance confrontations is first explored as the foundation of this study. In general, it addresses the following topics:

1. Incident analysis literature, which compares divergent PRC-U.S. legal positions, tangible interests, and maritime solutions;
2. Domestic analysis literature, which explores the PRC's social and political domestic pressures in relation to surveillance confrontations; and
3. International analysis literature, which investigates the regional and international causes and effects, and bilateral implications of surveillance confrontations.

While most scholarly sources bridge these categories throughout their discussions, sorting concepts into these structures enables further development of specific themes to highlight their relationship to the PRC's behavioral drivers. Figure 1 outlines the eight sub-themes relating to surveillance confrontations discussed in this chapter.

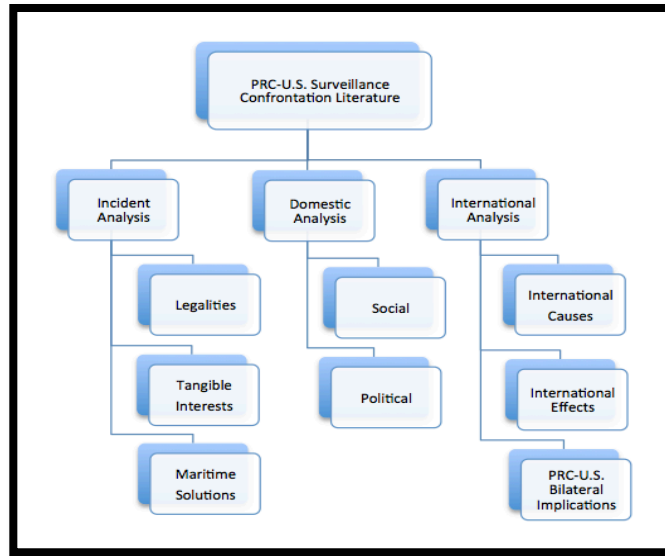


Figure 1. PRC-U.S. Surveillance Confrontation Literature

1. Incident Analysis

Incident analysis literature addresses legalities, tangible interests, and maritime specific solutions related to surveillance confrontations. Legal analysis contrasts PRC and U.S. viewpoints on international law. The United Nations Convention on the Law of the Sea (UNCLOS) is recognized as the international legal basis for maritime operations.¹ Peter Dutton highlights contradictory PRC and U.S. positions regarding state authority over the exclusive economic zone (EEZ), stating that these differences “flow from strategic mistrust and from divergent conceptions of law of the sea.”² People’s Liberation Army (PLA) Major General (ret.) Peng Guanqian highlights the PRC’s position, stating: the “legislative purpose of UNCLOS is that operations may be undertaken ‘only for peaceful purposes.’”³ PRC sources consider military surveillance beyond this intent. Jonathan Odom contrasts the U.S. viewpoint, stating that UNCLOS “does not give the

¹ Although the U.S. viewpoint is generally aligned to UNCLOS, it has not yet ratified the convention for reasons highlighted in Chapter II.

² Peter Dutton, ed., *Military Activities in the EEZ: A U.S.-China Dialogue on Security and International Law in the Maritime Commons* (Newport: Naval War College Press, 2010), 11, http://www.usnwc.edu/Research---Gaming/China-Maritime-Studies-Institute/Publications/documents/China-Maritime-Study-7_Military-Activities-in-the-.pdf.

³ Peng Guanqian, *Military Activities*, 22.

coastal state the right to limit high seas freedoms of other states beyond the coastal state's territorial seas.”⁴ Significant U.S. and PRC literature elaborates variations of conflicting legalities, which comprise one framework in which surveillance confrontations appear.

Literature assessing tangible interests contrasts the specific concerns held by the PRC and U.S. in an EEZ. Michael Swaine assesses PRC tangible EEZ interests to be maintaining submarine secrecy and U.S. interests to be intelligence gathering.⁵ Additional U.S. concerns in the EEZ include Raul Pedrozo's discussion of the importance of geographic surveys and David Bennett's necessity for the U.S. to uphold “freedom of the seas” when this norm is contested.⁶ Identifying each nation's specific EEZ interests is necessary to frame potential drivers of surveillance confrontations.

Another body focuses on maritime solution analysis; it provides maritime-specific resolutions to prevent future PRC-U.S. confrontations in the EEZ. Again, Peng indicates that solutions from the PRC's perspective involve respect for EEZ sovereignty, requisite permission for foreign military activities in the EEZ, and self-restraining mechanisms.⁷ From a U.S. standpoint, Pedrozo believes that the Military Maritime Consultative Agreement (MMCA) can serve as an effective maritime incident prevention tool.⁸ Rear Admiral (ret.) Eric McVadon further recommends an “Incidents at Sea Agreement” (INCSEA) between the U.S. and PRC.⁹ Literature providing potential maritime

⁴ Jonathan G. Odom, “The True “Lies of the *Impeccable* Incident: What Really Happened, Who Disregarded International Law, and Why Every Nation (Outside of China) Should Be Concerned,” *Michigan State Journal of International Law* 18, no. 3 (2010): 31, <http://jnsllp.com/wp-content/uploads/2010/06/the-true-lies-of-the-impeccable-incident-odom-msujil-may-2010.pdf>. Jonathan Odom is part of the U.S. Navy Judge Advocate General's Corps.

⁵ Michael D. Swaine, “The U.S.-China Spat at Sea,” *Foreign Policy* (March 11, 2009), <http://carnegieendowment.org/2009/03/11/U.S.-china-spat-at-sea/3546>.

⁶ Raul Pedrozo, “*Military Activities*,” 29; David Bennett, “An Analysis of the China's Offshore Active Defense and the People's Liberation Army Navy,” *Global Security Studies* 1, no. 1 (Spring 2010): 134, <http://globalsecuritystudies.com/Bennett%20China.pdf>.

⁷ Peng, “China's Maritime Rights,” 20–21.

⁸ Raul Pedrozo, “Close Encounters at Sea: The USNS *Impeccable* Incident,” *Naval War College Review* 62, no. 3 (Summer 2009): 109, <http://www.usnwc.edu/getattachment/d11a2362-fa30-4742-8ec4-c8bed2025114/Close-Encounters-at-Sea--The-USNS-Impeccable-Incid.aspx>.

⁹ Eric A. McVadon, “The Reckless and the Resolute: Confrontation in the South China Sea,” *China Security* 5, no. 2 (Spring 2009): 8–9, http://mercury.ethz.ch/serviceengine/Files/ISN/117001/ipublicationdocument_singledocument/e29007ef-0c92-46bf-a25b-4d250e6a7438/en/Issue14full.pdf.

resolutions is applicable for developing broader mitigation strategies for future incidents. Incident specific literature highlighting legal positions, tangible interests, and maritime solutions is useful for exploring potential drivers of the PRC's behavior and responding to this future dynamic.

2. Domestic Analysis

Domestic analysis explores the PRC's social and political pressures and their influences upon surveillance confrontations. Social analysis relates these engagements to the PRC's broader social setting. Swaine presents several explanations for increased incidents from this perspective: "Such behavior is attributed to a variety of factors generally associated with growing Chinese confidence, pride, and (paradoxically) insecurity."¹⁰ Robert Ross analyzes Chinese naval nationalism and concludes that "nationalism, rather than security, is driving China's naval ambition."¹¹ Alastair Johnson investigates the PRC's media-blog dynamics, stating its importance in "explaining the speed and intensity of future security dilemma dynamics between...the United States and China."¹² Analyzing the PRC's social atmosphere exposes its potential influence on surveillance confrontations.

Political analysis surveys the PRC's bureaucratic landscape in relation to surveillance confrontations. In 1992, John Garver concluded regarding an early period, "China's campaigns in the South China Sea...were driven largely by parochial bureaucratic interests, yet inspired by a vision of China's global position centuries hence."¹³ Garver's early 1990s analysis remains relevant to current PRC political conditions, such as Swaine and Fravel's assertion that subnational and non-governmental

¹⁰ Michael D Swaine, "Perceptions of an Assertive China," *China Leadership Monitor*, no. 32 (May 2010): 2, <http://media.hoover.org/sites/default/files/documents/CLM32MS.pdf>.

¹¹ Robert S. Ross, "China's Naval Nationalism: Sources, Prospects, and the U.S. Response," *International Security* 34, no. 2 (Fall 2009): 46, <http://cc.sjtu.edu.cn/G2S/eWebEditor/uploadfile/20120914184814311.pdf>.

¹² Alastair I. Johnston, "How New and Assertive is China's New Assertiveness?" *International Security* 37, no. 4 (2013): 48, http://belfercenter.ksg.harvard.edu/files/IS3704_pp007-048.pdf.

¹³ John W. Garver, "China's Push Through the South China Sea: The Interaction of Bureaucratic and National Interests," *The China Quarterly*, no. 132 (December, 1992): 1028, <http://dx.doi.org/10.1017/S0305741000045513>.

actors, including “oil companies, fishermen, scientists, five marine law enforcement agencies, and local governments,”¹⁴ play a role in domestic maritime pressures, as well as Mark Redden and Philip Saunders’ description of the People’s Liberation Army Navy’s (PLAN) political benefits derived from its defense of maritime sovereignty, to include: “clout in inter-service debates...public support, and...increased resources for naval modernization.”¹⁵ Analysis of the PRC’s political climate is vital to understanding possible bureaucratic drivers of the confrontations. Accounting for the social and political origins of surveillance confrontations enables isolation of potential domestic sources of the PRC’s behavior.

3. International Analysis

International analysis investigates the international causes, effects, and PRC-U.S. bilateral implications of surveillance confrontations. International causal analysis identifies potential external instigators of the PRC’s behavior. Peng outlines one driving factor for the PRC, stating that the scope of its naval operations will not exceed “China’s self-defense needs,”¹⁶ and its actions are based in the “lessons of history, including being invaded and divided; [therefore], China is especially sensitive and firm on the issues of sovereignty and territorial integrity.”¹⁷ U.S. sources present a variety of potential international instigators, including: Carlyle Thayer’s ideas of the PRC’s “disapproval of deeper U.S.-Vietnam security ties...[and]...geo-strategic concerns;”¹⁸ Saunders’ concepts of “eroding U.S. influence in Asia...[and the PRC’s desire to]...shape rules and norms;”¹⁹ and Derek Pham’s conclusion this behavior is “a natural consequence of an

¹⁴ Michael D. Swaine and M. Taylor Fravel, “China’s Assertive, Part Two: The Maritime Periphery,” *China Leadership Monitor* 35 (2011): 15, <http://www.hoover.org/publications/china-leadership-monitor/8146>.

¹⁵ Mark E. Redden and Philip C. Saunders, “Managing Sino-U.S. Air and Naval Interactions: Cold War Lessons and New Avenues of Approach,” *China Strategic Perspectives* 5, (Sep 2012): 19, <http://www.ndu.edu/press/lib/pdf/china-perspectives/ChinaPerspectives-5.pdf>.

¹⁶ Peng, “China’s Maritime Rights,” 19.

¹⁷ Ibid.

¹⁸ Carlyle A. Thayer, “The United States and Chinese Assertiveness in the South China Sea,” *Security Challenges* 6, no. 2 (Winter 2010): 82–83, <http://www.securitychallenges.org.au/ArticlePages/vol6no2Thayer.html>.

¹⁹ Redden, “Managing Sino-U.S.,” 21–22.

unfortunate intersection between growing Chinese naval capacity and other states' misunderstanding of China's strategic outlook."²⁰ Additional sources focus on the PRC's outward pressure upon the international system. From the standpoint of international relations theory and a rising PRC, Taylor Fravel presents the idea that rapidly growing "states find that they lack resources within their boundaries and thus face mounting 'lateral pressure' to expand abroad...China moved to assert its claims...when it challenged the USNS *Impeccable*."²¹ Building upon territorial expansion, Robert Haddick proposes that the incidents stem from an underlying "strategy of incremental actions...which add up over time to a major strategic change."²² James Kraska portrays maritime confrontations as "part of an anti-access or sea-denial strategy...to reshape the exclusive economic zone from an area of limited jurisdiction focused on resource management and exploitation toward an area of quasi-sovereign ocean and airspace."²³ Exposing international pressures enables their isolation as drivers of surveillance confrontations.

The second international analysis subset assesses the effects that surveillance confrontations have upon regional and international dynamics. As pointed out by Alice Ba, EEZ surveillance and Southeast Asian territorial concerns share threads of substantive continuity, which enables an "opening for the United States to multilateralize and thus legitimate its specific strategic concerns through existing regional mechanisms,"²⁴ and that these "developments potentially have damaged what may be

²⁰ Derek Pham, "Gone Rogue?: China's Assertiveness in the South China Sea," *Journal of Politics and Society* 22, no. 1 (2011): 140, <http://hdl.handle.net/10022/AC:P:11370>.

²¹ M. Taylor Fravel, "International Relations Theory and China's Rise: Assessing China's Potential For Territorial Expansion," *International Studies Review* 12 (2010): 513–514, <http://taylorfravel.com/documents/research/fravel.2010.ISR.china.expansion.pdf>.

²² Robert Haddick, "Salami Slicing in the South China Sea," *SmallWarsJournal.com*, August 3, 2102, quoted in Ronald O'Rourke, "Maritime Territorial and Exclusive Economic Zone (EEZ) Disputes Involving China: Issues for Congress," Congressional Research Service (Washington, DC: Library of Congress, 2013), 16, <http://www.fas.org/sfp/crs/row/R42784.pdf>.

²³ James Kraska, "Sovereignty at Sea," *Survival* 51, no. 3 (June-July 2009): 15–16.

²⁴ Alice D. Ba, "Staking Claims and Making Waves in the South China Sea: How Troubled are the Waters?" *Contemporary Southeast Asia: A Journal of International and Strategic Affairs* 33, no. 3 (December 2011): 282, http://muse.jhu.edu/login?auth=0&type=summary&url=/journals/contemporary_southeast_asia_a_journal_of_international_and_strategic_affairs/v033/33.3.ba.html.

[the Association of Southeast Asian Nation] ASEAN's greatest resource—namely, its neutrality.”²⁵ Saunders presents an alarming potential that these incidents contain a “risk of unsettling the regional security environment,”²⁶ and he also outlines a less tangible, but important negative impact these encounters have on “China’s efforts to project a positive international image as a responsible power that is making positive contributions to regional and global security.”²⁷ Understanding the regional and international effects of surveillance confrontations enables their comparison to benefits they provide to the PRC.

The PRC-U.S. bilateral implications of surveillance confrontations comprise a third subset of the internationally focused discussions. Scholars on both sides concur with Peng’s assessment that “Sino-U.S. maritime relations are far behind other, more developed aspects of the bilateral relationship.”²⁸ PLA General Xu Caihou cites surveillance as an impediment to stronger ties, on par with Taiwan arms sales and the National Defense Authorization Act (NDA) of 2000.²⁹ Together, these three factors are generally referred to as the “three obstacles” to stronger PRC-U.S. cooperation. Saunders assesses that “both the United States and China have more to lose if a military incident turns into a major bilateral political issue that impedes U.S.-China economic and international cooperation.”³⁰ Regardless of the viewpoint, U.S. surveillance within the EEZ and the resulting PRC harassment strains relations. Understanding PRC-U.S. bilateral implications is necessary for linking drivers of the confrontations with their consequences upon the overarching relationship. Assessing the international causes and effects, and bilateral implications of surveillance confrontations enables their connection to the surrounding geopolitical landscape.

Incident specific, domestic, and international scholarship all magnifies surveillance confrontations from varied perspectives. Most literature crosses over the

²⁵ Ibid., 283.

²⁶ Redden, “Managing Sino-U.S.,” 22–23.

²⁷ Ibid., 23.

²⁸ Peng, “China’s Maritime Rights,” 19.

²⁹ Thayer, “The United States,” 81–82.

³⁰ Redden, “Managing Sino-U.S.,” 17.

aforementioned themes or relates to additional topics; however, these divisions enable an organized basis for understanding potential drivers of the PRC's behavior. The focus of this study is the consideration of concurrent geopolitical drivers, which are largely absent from these themes; however, many of the ideas expressed in current literature will be applied throughout this investigation.

F. OVERVIEW

To identify, assess, and project the PRC's drivers underlying its surveillance confrontations, the 2001 and 2009 incidents are analyzed through the lenses of PRC-U.S. maritime development, each incident's specific narratives, and the surrounding geopolitical landscapes. Chapter II presents the development of PRC-U.S. maritime relations to 2001. Chapter III employs a case study to explore the USNS *Bowditch* and EP-3 incidents in early 2001. Chapter IV employs a second case study to examine significant events in PRC-U.S. relations surrounding the 2001 incidents. Chapter V presents the development of PRC-U.S. maritime relations from 2001 to 2009. Chapter VI employs a third case study to explore the USNS *Victorious* and USNS *Impeccable* incidents in early 2009. Chapter VII employs a fourth case study to examine significant events in PRC-U.S. relations surrounding the 2009 incidents. Once the confrontations are assessed through these lenses, potential drivers of the PRC's behavior are examined across their divisions. Chapter VIII conducts a comparative analysis from this basis to identify the most likely instigators of surveillance confrontations. Once the most likely primary drivers are identified, they can be projected onto future PRC-U.S. relations. Chapter IX assesses the future of this dynamic by exploring the likely impact of current trends. Finally, Chapter X discusses military implications and mitigation strategies in light of these trends. Surveillance confrontations have evolved with the complexities of PRC-U.S. relations; however, the timings of these incidents in relation to several recurring drivers, remains *Impeccable*.

II. PRC-U.S. MARITIME DEVELOPMENT (TO 2001)

A. INTRODUCTION

To identify potential drivers of the PRC's behavior during the 2001 surveillance confrontations, the development of PRC-U.S. maritime relations is first outlined. Maritime relations development is defined by the evolution of both nations' norms in the offshore domain. This setting is explored to early 2001 as a foundation of the first set of incidents.

B. PRC-U.S. MARITIME RELATIONS TO 2001

The development of PRC-U.S. maritime relations to early 2001 was influenced by several interwoven factors, including: the evolution of historical circumstances, international norms, bilateral and multilateral initiatives, and recent dynamics. Each of these sub-sets is explored, revealing several volatile conditions underlying the 2001 surveillance confrontations.

1. Historical Circumstances

Historical circumstances are defined by major events in the formative period of PRC-U.S. relations relating to maritime sovereignty issues, which impact modern surveillance confrontations. Pedrozo highlights an aspect of historical circumstances, stating: "for centuries, the navies of the world have operated and trained in waters seaward of other nation's territorial seas without constraint or the consent of coastal states."³¹ Within this context, however, China has experienced many historical infringements upon its sovereignty, particularly from maritime powers. Bennett outlines several examples, including: various 19th and 20th century offensives by Britain, France, Japan, and Russia, which divided Chinese territory; the imposed opening of trade by Great Britain during the Opium Wars; the French acquisition of Indochina; the Sino-Japanese War of the 1894–95; and the progressive Japanese occupation of China in the

³¹ Pedrozo, "Close Encounters," 103.

1930s that lasted until the end of World War II.³² These historical struggles are often presented as China's period of "national humiliation,"³³ which is supported by Peng's statement: "Given the lessons of history, including being invaded and divided, China is especially sensitive and firm on the issues of sovereignty and territorial integrity. The Chinese government and the Chinese people will not compromise any vital interests related to national sovereignty and security."³⁴ Additionally, between 1945 and PRC-U.S. rapprochement in the 1970s, Jonathan Wilkenfeld lists several other adverse influences upon bilateral relations, including: the Communist victory in the Chinese Civil War in the late 1940s, the 1950–53 Korean War, and the 1954 and 1958 Taiwan Straits crises.³⁵ Together, these historical circumstances underpin modern tensions surrounding issues of maritime sovereignty, which were likely a strong element of the PRC's adverse behavior towards foreign assets operating on its maritime periphery in 2001.

2. International Norms

International norms to early 2001 entailed divergent PRC and U.S. interpretations of international behavior, which also influenced the surveillance confrontations. Before World War II, liberal ideals attempted to foster peaceful international relations, an example of which was Wilson's "Fourteen Points." Point II promoted: "Absolute freedom of navigation upon the seas, outside territorial waters, alike in peace and in war, except as the seas may be closed in whole or in part by international action for the enforcement of international covenants."³⁶ From World War II through the 2001 incidents, maritime sovereignty attained greater definition through international agreements. UNCLOS I was held in 1958 to define basic maritime domains; UNCLOS II was held in 1960, which failed to advance the issue; and UNCLOS III assembled on

³² Bennett, "An Analysis of the China's," 128.

³³ Ibid.

³⁴ Peng, "China's Maritime Rights." 19.

³⁵ Jonathan Wilkenfeld, "Concepts and Methods in the Study of International Crisis Management," in *Managing Sino-American Crises*, eds. Michael D. Swaine, Zhang Tuosheng, and Danielle F. S. Cohen, (Washington, DC: Brookings Institution Press. 2006), 112.

³⁶ Henry Steele Commager, *Documents of American History*, 8th ed. (New York: Appleton–Century–Crofts, 1968), 138.

November 16, 1973, was opened for signature on December 10, 1983, and was ratified by the PRC on June 7, 1996.³⁷ Article 58 of UNCLOS defines rights of navigation within the EEZ:

In the exclusive economic zone, all States, whether coastal or land-locked, enjoy, subject to the relevant provisions of this Convention, the freedoms referred to in article 87 of navigation and overflight and of the laying of submarine cables and pipelines, and other internationally lawful uses of the sea related to these freedoms, such as those associated with the operation of ships, aircraft and submarine cables and pipelines, and compatible with the other provisions of this Convention.³⁸

UNCLOS attempted to harmonize international interpretations of appropriate behavior in the EEZ; however, divergent interpretations of this convention have endured.

The PRC and U.S. have fundamentally different interpretations of state rights in the EEZ. In conjunction with the PRC's 1996 UNCLOS ratification, it declared: "In accordance with the provisions of the United Nations Convention on the Law of the Sea, the People's Republic of China shall enjoy sovereign rights and jurisdiction over an exclusive economic zone of 200 nautical miles and the continental shelf."³⁹ On this basis, Yu Zhirong presents a PRC interpretation of EEZ rights: "international waters do not exist in UNCLOS and are not generally accepted. The American policy of conducting unauthorized military surveys in sea areas under the jurisdiction of another coastal state should be scrutinized for its illegality."⁴⁰ Conversely, Eugene Buck outlines how the U.S. did not originally ratify UNCLOS due to "provisions dealing with deep seabed mineral

³⁷ Background to UNCLOS, The Continental Shelf Program, accessed December 6, 2013, <http://www.continentalsshelf.org/about/1143.aspx>. This is the website of The Continental Shelf Programme, which is coordinated by GRID-Arendal in Norway and was established to assist developing States and Small Island Developing States (SIDS) to complete the activities required to delineate the outer limits of their continental shelf; Declarations and Statements, United Nations Division for Ocean Affairs and Law of the Sea, last modified October 29, 2013, http://www.un.org/depts/los/convention_agreements/convention_declarations.htm#China%20Upon%20ratification.

³⁸ Part V: Exclusive Economic Zone, Preamble to the United Nations Convention on the Law of The Sea, accessed December 6, 2013, http://www.un.org/depts/los/convention_agreements/texts/unclos/part5.htm.

³⁹ Declarations and Statements, United Nations Division of Ocean Affairs.

⁴⁰ Yu Zhirong, "Military Activities," 41.

resources beyond national jurisdiction.”⁴¹ Although this issue was amended in 1994, the U.S. has not yet ratified UNCLOS for several possible reasons, including Jeremy Rabkin’s assessment that it “has never agreed to treaties under which new standards can be imposed without express U.S. consent.”⁴² Regardless, Ronald O’Rourke points out that “the treaty’s provisions relating to navigational rights, including those in EEZs, reflect the U.S. position on the issue.”⁴³ Additionally, the U.S. operates under Pedrozo’s interpretation that “nothing in UNCLOS or state practice changes the right of military forces of all nations to conduct military activities in the exclusive economic zone without coastal-state notice or consent.”⁴⁴ At the U.S. Naval Institute conference WEST 2014, Rear Admiral James Foggo, Assistant Deputy Chief of Naval Operations (CNO) for Operations, Plans, and Strategy, contrasted enduring differences in PRC and U.S. interpretations of EEZ rights by recounting his dialogue with the PLAN Commander in Chief, Admiral Wu Shengli:

[Admiral Wu] said: ‘you Americans want to talk about freedom of navigation, you don’t understand the meaning of the word. It’s not freedom of navigation, its freedom of passage. We have no issue with you passing through our EEZ from point A to point B, just don’t stop and loiter. That’s your definition of freedom of navigation—stopping and loitering.’ I said: ‘we operate with due regard and we’re not going to go anywhere—those are international waters.’⁴⁵

This exchange highlights continued PRC-U.S. disagreements over EEZ operations. International norms reveal divergent PRC and U.S. interpretations of UNCLOS, so additional efforts have attempted to mitigate conflict.

⁴¹ Eugene H. Buck, “UN Convention on the Law of the Sea: Living Resource Provisions,” Congressional Research Service (Library of Congress, January 18, 2011), 1.

⁴² Ibid.; Jeremy Rabkin, “The Law of the Sea Treaty: A Bad Deal for America,” *Competitive Enterprise Institute*, no. 3 (2006): 1. <http://cei.org/sites/default/files/Jeremy%20Rabkin%20-%20The%20Law%20of%20the%20Sea%20Treaty%20A%20Bad%20Deal%20for%20America.pdf>.

⁴³ O’Rourke, “Maritime Territorial and Exclusive.” 34.

⁴⁴ Pedrozo, “Close Encounters,” 103.

⁴⁵ James Foggo, “WEST 2014,” U.S. Naval Institute, February 13, 2014, <http://www.youtube.com/watch?v=wWhwm4SJxTw>.

3. Bilateral and Multilateral Initiatives

Bilateral and multilateral initiatives further influenced the 2001 surveillance confrontations; however, they were inadequate, lacking specificity, dispute settlement, and enforcement mechanisms. Redden and Sander highlight that the primary PRC-U.S. bilateral maritime coordination mechanism is the MMCA, “an initiative formalized ‘to reduce the chances of confrontation between the two militaries in the air and on the sea.’”⁴⁶ The MMCA was signed on January 19, 1998, and consists of: “1. Annual meetings, normally scheduled for two to three days;...2. Working groups...to study and discuss agenda items;...[and]... 3. Special meetings, ... for the purpose of consulting on specific matters of concern.”⁴⁷ Redden and Saunders relay that MMCA working groups lack a defined structure, and “for the United States, the focus is primarily on the development of tactical-level deconfliction procedures; for China, MMCA is a venue to address broader political-military issues.”⁴⁸ In particular, the issue of close in reconnaissance is central among these. MMCA was the primary PRC-U.S. mechanism for mitigating maritime confrontation; however, both sides approach it differently.

Additional multilateral initiatives also influenced the 2001 confrontations. Redden and Saunders highlight several examples, including: International Regulation for Preventing Collisions at Sea (COLREGS), which are the “international maritime rules of the road designed to eliminate collisions;”⁴⁹ and for aircraft, International Civil Aviation Organization (ICAO) rules “are explicitly formulated for the civil aviation sector and also address interactions between civil and state aircraft, ...[however,]... no provisions address state-state aircraft in international airspace.”⁵⁰ A final multilateral mechanism to coordinate maritime interactions is the Code for Unalerted Encounters at Sea (CUES),

⁴⁶ Redden, “Managing Sino-U.S.,” 8.

⁴⁷ “Agreement Between The Department of Defense of the United States of America and the Ministry of National Defense of the People’s Republic of China on Establishing a Consultation Mechanism to Strengthen Military Maritime Safety,” Federation of American Scientists, accessed November 25, 2013, <http://www.fas.org/nuke/control/sea/text/us-china98.htm>.

⁴⁸ Redden, “Managing Sino-U.S.,” 8.

⁴⁹ Ibid., 9.

⁵⁰ Ibid.

first presented in 1998 to “enhance multinational cooperation at a professional level.”⁵¹ Redden and Saunders state that CUES provides “‘safety measures and a means to limit mutual interference and uncertainty,’ is voluntary, ...not binding, ...[and]...arbitration is left to individual states.”⁵² The *Diplomat* reports that the PRC had opposed CUES until April 2014, previously “citing dissatisfaction with the word ‘code’ (implying legal force) in the title.”⁵³ Thus, there existed several bilateral and multilateral initiatives that attempted to mitigate potential EEZ conflict prior to the 2001 confrontations, but these agreements were inadequate due to a lack of specificity, dispute settlement provisions, and enforcement mechanisms.

4. Recent Dynamics

The 2001 surveillance confrontations were also impacted by recent dynamics, defined by specific events and trends from PRC-U.S. normalization in 1979 until 2001. Shirley Kan highlights how “U.S. policy changed in 1981 to remove the ban on arms sales to China; ...[however,]...the United States suspended mil-to mil contacts and arm sales in response to the Tiananmen Crackdown in June 1989.”⁵⁴ Kan continues: “In the fall of 1993, the Clinton Administration began to re-engage the PRC leadership; ...however, results were limited and the military relationship did not regain the closeness reached in the 1980s.”⁵⁵ Kan concludes that vacillating “bilateral relations affected mil-to-mil contacts, which had close ties in 1997–1998 and 2000, but were marred by the 1995–1996 Taiwan Strait Crisis...[and the]...mistaken NATO bombing of the PRC embassy in Yugoslavia in 1999.”⁵⁶ These trends highlight festering PRC-U.S. tensions leading up to the 2001 confrontations.

⁵¹ “Semaphore: July 2006, the Western Pacific Naval Symposium,” Royal Australian Navy, accessed April 28, 2014, <http://www.navy.gov.au/media-room/publications/semaphore-july-2006>.

⁵² Redden, “Managing Sino-U.S.,” 9.

⁵³ Shannon Tiezzi, “Small But Positive Signs at Western Naval Symposium,” *The Diplomat*, April 24, 2014, <http://thediplomat.com/2014/04/small-but-positive-signs-at-western-pacific-naval-symposium/>.

⁵⁴ Shirley A. Kan, “U.S.-China Military Contacts: Issues For Congress,” Congressional Research Service (Washington, DC: Library of Congress, November 20, 2013), 2.

⁵⁵ Ibid.

⁵⁶ Ibid.

PRC-U.S. friction surrounding the EEZ also increased in the years prior to the 2001 confrontations. First, the PRC attempted to assert greater control over its EEZ in the late 1990s, evidenced by its passage of the “Provisions on the Administration of Foreign-Related Maritime Scientific Research,” enacted on October 1, 1996, which requires maritime activities to be “subject to the approval of the state administrative department of marine affairs.”⁵⁷ A second declaration through which the PRC attempted to enhance control over its EEZ was the “Law of the People’s Republic of China on the Exclusive Economic Zone and the Continental Shelf,” enacted on June 26, 1998, “to ensure that the People’s Republic of China shall exercise its sovereign rights and jurisdiction over its exclusive economic zone and its continental shelf and safeguard its national maritime rights and interests.”⁵⁸ Bernard Cole also notes the China Maritime Surveillance service (CMS) “was created on 19 October 1998...and is responsible for enforcing laws and order within China’s territorial waters, EEZ, and shore,”⁵⁹ among other missions. Lastly, Dennis Blair and David Bonfili highlight that “for years before the...[EP-3]...incident, the United States had conducted reconnaissance flights off the coast of China.”⁶⁰ However, in April 2001, the *Washington Post* reported:

In the second half of last year, the U.S. military stepped up its reconnaissance flights, sending planes four or five times a week about 50 miles off the Chinese coast, according to a Chinese military official. He maintained that this was an increase over the years 1997–99, when the average had been about 200 flights annually. The Chinese response has been to scramble jet fighters to intercept and fly alongside about one of every three reconnaissance flights, a U.S. Navy official said. In recent months that rate continued, keeping pace with the stepped-up U.S. flights. But there was a key difference, he said: The Chinese jets came closer and

⁵⁷ “Provisions on the Administration of Foreign-Related Maritime Scientific Research,” Asian Legal Information Institute, accessed April 25, 2014, <http://www.asianlii.org/cn/legis/cen/laws/potaofmsr735/>. The Asian Legal Information Institute is a non-profit website providing legal information for 27 Asian nations.

⁵⁸ “Law of the People’s Republic of China on the Exclusive Economic Zone and the Continental Shelf,” Asian Legal Information Institute, accessed May 19, 2014, <http://www.asianlii.org/cn/legis/cen/laws/lotprocoteezatcs790/>.

⁵⁹ Bernard D. Cole, *The Great Wall at Sea*, 2nd ed. (Annapolis: Naval Institute Press, 2010), 81.

⁶⁰ Dennis C. Blair and David B. Bonfili, “*Managing Sino-American Crises*,” 378.

closer. After one fighter came within 30 feet of a U.S. plane on Christmas Day, the United States filed a formal diplomatic protest in Beijing.⁶¹

This account reveals an established trend of airborne intercepts prior to early 2001; however, starting in December 2000, these intercepts became hazardous, indicating further PRC pressure towards U.S. surveillance activities. Recent dynamics expose intersecting patterns of festering bilateral tensions, rising PRC assertion over its EEZ, and increasing U.S. reconnaissance activities, revealing a convergence of pressures in the maritime domain that likely impacted the 2001 surveillance confrontations.

C. CONCLUSION

The 2001 incidents were significantly shaped by the progression of PRC-U.S. maritime relations. This evolution revealed a basis of PRC-U.S. tensions involving adverse historical circumstances, divergent interpretations of international norms, inadequate bilateral and multilateral initiatives, and the converging pressures of recent dynamics. Upon this volatile basis, two nearly simultaneous surveillance confrontations transpired within the PRC's EEZ in early 2001, which are explored in the following chapter.

⁶¹ Thomas Ricks, "Anger over Flights Grew in Past Year," *Washington Post*, April 7, 2001, http://www2.ljworld.com/news/2001/apr/07/anger_over_flights/.

III. USNS *BOWDITCH* AND EP-3 CASE STUDY (2001)

A. INTRODUCTION

The 2001 USNS *Bowditch* and EP-3 incidents comprise the first incident case study. Upon the volatility of PRC-U.S. maritime relations, the 2001 incidents are contrasted from both nations' perspectives for potential drivers of the PRC's behavior. This assessment suggests that operational opportunism was likely an instigator of the 2001 confrontations.

B. USNS *BOWDITCH* INCIDENT (MARCH 23, 2001)

The 2001 harassment of USNS *Bowditch* in the East China Sea marked the first reported surveillance confrontation with U.S. surveillance vessels in the PRC's EEZ. This incident featured a specific operational objective of PLAN harassment, supporting operational opportunism as a likely driver of the PRC's behavior. U.S. and PRC perceptions of the USNS *Bowditch* incident are contrasted to reconstruct the encounter.

1. U.S. Perceptions

U.S. accounts indicate that the PRC strongly asserted its claims when it challenged USNS *Bowditch* in early 2001, but tensions were initially placated because the U.S. vessel left the EEZ. According to Pedrozo, on March 23, 2001, *Bowditch* "was conducting routine military survey operations in China's claimed exclusive economic zone (EEZ) in the Yellow Sea when it was 'aggressively confronted' by a Chinese Jianheu [or Jianghu] III-class frigate."⁶² Kan describes how the "frigate passed as close as 100 yards"⁶³ to *Bowditch*. Pedrozo states that *Bowditch* was threatened and "ordered to leave China's EEZ,"⁶⁴ and "being an unarmed naval auxiliary vessel, *Bowditch*

⁶² Pedrozo, "Close Encounters," 101.

⁶³ Shirley A. Kan, "China's Military and Security Developments," Congressional Research Service (Washington, DC: Library of Congress, January 20, 2011), 5.

⁶⁴ Pete Pedrozo, "The U.S.-China Incidents at Sea Agreement: A Recipe for Disaster," *Journal of National Security Law and Policy*, (August 29, 2012): 211, <http://jnslp.com/2012/08/29/the-u-s-china-incidents-at-sea-agreement-a-recipe-for-disaster/>.

changed course and left the area as instructed.”⁶⁵ USNS *Bowditch* and a PLAN Jianghu Frigate are depicted in Figure 2. Kan also relays that “a PLA reconnaissance plane shadowed [*Bowditch*].”⁶⁶ Amidst this unprecedented confrontation, USNS *Bowditch* left the area of contention, temporarily pacifying growing tensions.



Figure 2. USNS *Bowditch* and PLAN Jianghu III Frigate.⁶⁷

After the engagement, the U.S. took measures to preserve freedom of EEZ navigation norms. Pedrozo describes how “a few days later, the U.S. Embassy filed a strongly worded diplomatic protest with the Chinese Ministry of Foreign Affairs.”⁶⁸ This was supplemented by a reassertion of the status quo, as Pedrozo states: “*Bowditch* returned to the area of the encounter, this time with an armed U.S. escort, to continue its mission.”⁶⁹ According to Kraska and Pedrozo, in response to the U.S. protest, “Beijing indicated that U.S. military survey operations in the EEZ posed a threat to its national security and required China’s consent.”⁷⁰ Both sides continued to assert their positions as evidenced by Kan’s statement that “the PLA’s harassment of the USNS *Bowditch*

⁶⁵ Pedrozo, “Close Encounters,” 101.

⁶⁶ Kan, “China’s Military and Security,” 5.

⁶⁷ Oceanographic Survey Ships, Military Sealift Command, accessed April 28, 2014, <http://www.msc.navy.mil/inventory/ships.asp?ship=17>; Type 053 Jianghu-class Frigates, GlobalSecurity.org, accessed April 28, 2014, <http://www.globalsecurity.org/military/world/china/jianghu-gallery.htm>.

⁶⁸ Pedrozo, “Close Encounters,” 101.

⁶⁹ Ibid.

⁷⁰ James Kraska and Raul Pedrozo, *International Maritime Security Law* (Leiden, Netherlands: Martinus Nijhoff Publishers, 2013), 287.

continued for months after March 2001,”⁷¹ supporting operational opportunism as a driver of the PRC’s behavior during this period.

2. PRC Perceptions

PRC sources portray that the 2001 USNS *Bowditch* incident resulted from its unauthorized operations within the EEZ at a time of heightened sensitivity. The *Beijing Ribao* claims *Bowditch* was observing a PLA submarine exercise; additionally, in response to an April 2, 2001 *Washington Post* report that a PLAN frigate “was carrying out ‘aggressive and provocative actions’ against the U.S. reconnaissance ship and directing its fire control radar at the *Bowditch*,”⁷² *Beijing Ribao* makes the statement that “The *Huangshi* [FFG 535] did not aim fire at the *Bowditch*. The *Bowditch* was forced to leave the area, and the PLA sent a reconnaissance plane to following it.”⁷³

The 2001 USNS *Bowditch* incident displayed an unprecedented PLAN confrontation with a U.S. surveillance vessel operating with the PRC’s EEZ. PRC sources claimed an operational basis for this encounter, supporting operational opportunism as a likely driver of its behavior. Although this would have been a significant encounter in and of itself, its impact was soon overshadowed by the EP-3 incident’s political fallout.

C. EP-3 INCIDENT (APRIL 1, 2001)

On April 1, one week after the *Bowditch* incident, a U.S. Navy EP-3 and a PLAN F-8 Finback accidentally collided in the South China Sea, killing the F-8 pilot and forcing the EP-3 to land in the PRC, resulting in a diplomatic crisis. This incident was preceded by several months of hazardous PLAN intercepts, suggesting that operational opportunism was likely a driver of the PRC’s behavior, in which local commanders

⁷¹ Kan, “China’s Military and Security,” 5.

⁷² Ren Yujun, “U.S. Military Planes and Ships Frequently Carry out Provocations at China’s Threshold; Today They Have Dispatched Three Destroyers to Cruise off Hainan,” *Renmin Ribao*, April 3, 2001, Open Source Center, (CPP20010403000058), *Renmin Ribao* is the Chinese Communist Party Central Committee’s daily newspaper.’

⁷³ Ibid.

challenged U.S. surveillance assets whenever the opportunity appeared. U.S. and PRC perceptions of the incident are contrasted to reconstruct this encounter.

1. U.S. Perceptions

The PRC's pattern of airborne intercepts became hazardous in December 2000, and many U.S. accounts present this as a basis of the April 2001 EP-3 incident. Blair and Bonfili highlight this growing trend: "in the year before the collision...a new and dangerous pattern had emerged. Chinese fighters flying from Hainan Island began flying dangerous intercepts, frequently crossing close ahead of the U.S. planes."⁷⁴ Kan indicates an intensification of this pattern in December 2001, as indicated by a formal protest: "according to the Pentagon, the PLA began its recent pattern of aggressive interceptions of U.S. reconnaissance flights in December, 2000. The United States lodged a formal protest...on December 28, 2000."⁷⁵ The increasingly confrontational posture of PLAN aircraft is also confirmed by the firsthand accounts of Lieutenant (LT) Shane Osborn, the EP-3 pilot during the incident: "They had become more aggressive over the recent months. They'd been closer and closer, but they'd never been that close, on the side of our wing."⁷⁶ This extended period of airborne confrontations by the PLAN supports operational opportunism as a likely driver of the PRC's behavior, in which local commanders challenged U.S. surveillance assets whenever the opportunity appeared.

Amidst this backdrop of increased engagements, the accidental collision occurred on April 1. Kan states: "Shortly after 9:00 am on April 1, 2001...a U.S. Navy EP3E (Ares II) turboprop reconnaissance aircraft and a...(PLAN) F-8II jet fighter accidentally collided in international airspace about 70 miles off of the PRC's Hainan Island."⁷⁷ LT Osborn describes the collision, stating: "He came up on us twice, and both times were really close...I just knew he was going to hit us because he wasn't stable. He was all

⁷⁴ Blair, "The April 2001," 378.

⁷⁵ Shirley Kan et al., "China-U.S. Aircraft Collision Incident of April 2001: Assessments and Policy Implications," Congressional Research Service (Washington, DC: Library of Congress, 2001), 14.

⁷⁶ Shane Osborn, Interview, *Frontline*, CBS, Fall 2001, <http://www.pbs.org/wgbh/pages/frontline/shows/china/interviews/osborn.html>.

⁷⁷ Kan, "China-U.S. Aircraft Collision," 1.

over. The third time, you heard screams coming from the back as he came and he pitched up into us.”⁷⁸ Following the incident, U.S. Secretary of Defense Donald Rumsfeld described how the PRC fighter likely lost control, stating: “The Chinese jets ‘are not designed to fly’ at such low speeds, Rumsfeld said, in explaining the jet’s instability.”⁷⁹ U.S. accounts of the collision reveal that the incident was likely the result of an unintentional lapse in tactical control by the F-8 pilot amidst an established trend of hazardous airborne intercepts.

The collision resulted in the F-8 pilot’s death and the EP-3 making an emergency landing on Hainan Island, China. Kraska and Pedrozo describe what happen to the F-8: “The pilot of the Finback ejected over the South China Sea after his plane was cut in half by the propeller of the Orion. The Chinese pilot was never recovered and presumed dead.”⁸⁰ The EP-3 narrowly avoided crashing, as evident by LT Osborn’s account: “we were in an inverted dive and we lost about 8,000 feet, upside down.”⁸¹ LT Osborn also describes how the aircraft depressurized, lost an engine, descended to 8,000 feet to maintain altitude, and after regaining control, the crew worked to destroy sensitive material in transit to the emergency landing on Hainan Island.⁸² The downed EP-3 on Hainan Island and a PLAN F-8II are depicted in Figure 3. Accounts of the collision indicate that the 24 crew of the EP-3 narrowly avoided catastrophe.

⁷⁸ Osborn, Interview.

⁷⁹ Gerry J. Gilmore, “Chinese Jet Struck Navy EP-3 Aircraft, Rumsfeld Says,” *American Forces Press Services*, April 13, 2001, <http://www.defense.gov/News/NewsArticle.aspx?ID=44955>.

⁸⁰ Kraska, *International Maritime Security*, 290.

⁸¹ Osborn, Interview.

⁸² Ibid.



Figure 3. U.S. Navy EP-3 on Hainan Island and a PLAN-F-8II.⁸³

The EP-3 incident had many bilateral implications for PRC-U.S. relations. U.S. sources assert that PRC civil-military dynamics skewed its understanding of the incident; consequently, blame was placed upon the U.S. and the release of the EP-3 crew became tied to demands for a formal apology. Susan Shirk states: “The information on the accident came from the Hainan naval air base, whose interest was in protecting its own pilots from blame. The PLA said unequivocally, just as it had in the Belgrade embassy bombing, that the American military had caused the incident. The government adopted the military version as the official version of the incident.”⁸⁴ Kan outlines several PRC-U.S. disagreements, including: “the cause of the accident, the release of the crew and plane, whether Washington would ‘apologize,’...the PRC’s right to inspect the EP-3, [and] for the right of U.S. and other nations’ aircraft to fly in international airspace near China.”⁸⁵ Shortly after the incident, *CNN* reported that by April 2, the U.S. dispatched three destroyers to a position 150 miles east of Hainan Island.⁸⁶ The PRC released the EP-3 crew on April 12 “out of humanitarian considerations.”⁸⁷ Additionally, *CNN* indicated that the U.S. soon reasserted the status quo by resuming reconnaissance flights

⁸³ “U.S. Resumes Spy Plane Flights,” *BBC News*, May 7, 2001, <http://news.bbc.co.uk/2/hi/asia-pacific/1317489.stm>; Kan, “China-U.S. Aircraft Collision,” 16.

⁸⁴ Susan L. Shirk, *Fragile Superpower* (Oxford: University Press, 2007), 235.

⁸⁵ Kan, “China-U.S. Aircraft Collision,” 1.

⁸⁶ “Grounded in Hainan,” *CNN Insight Transcripts*, April 2, 2001, http://transcripts.cnn.com/TRANSCRIPTS/0104/02/i_ins.00.html.

⁸⁷ Kan, “China-U.S. Aircraft Collision,” 3–5.

on May 7, which were monitored by PRC aircraft at a safe distance.⁸⁸ According to Kan, an agreement to return the aircraft was announced on May 29, and a Russian transport aircraft removed the disassembled plane slightly more than three months after the collision, on July 3.⁸⁹ Figure 4 depicts the disassembled EP-3's departure from Hainan Island.



Figure 4. Photo of the EP-3 being loaded onto a Russian AN-124.⁹⁰

2. PRC Perceptions

PRC sources also indicate a period of increased tensions prior to the April 1 incident, supporting operational opportunism as a likely driver of its behavior. The *People's Daily* outlines two previous airborne incidents in early March 2001, collaborating an established trend of heightened airborne tensions along the PRC's maritime periphery: "The first occurred at noon on 6 March, when two U.S. high-altitude reconnaissance planes from Okinawa flew over the Yellow Sea to carry out reconnaissance on submarines of China's North Sea Fleet engaged in a strategic exercise. China's Jinan Military Region immediately scrambled four Jian-7s to intercept and warn

⁸⁸ Chris Plante, "U.S. Quietly Resumes Surveillance Flights Off China," *CNN*, 15 May 2001, <http://edition.cnn.com/2001/U.S./05/15/us.china.plane/>.

⁸⁹ Kan, "China-U.S. Aircraft Collision," 7–8.

⁹⁰ Ibid.

them, whereupon the U.S. planes turned around and left.”⁹¹ A second, similar incident occurred the following day:

In the early morning of 7 March, two formations of U.S. planes left their base in Japan, each formation consisting of one reconnaissance plane with 2 F-15 fighters as escorts; they flew around in the vicinity of the international airspace center line of the East China sea to test air defense reaction in east China. When the U.S. planes approached the center line, a Chinese mobile radar locked onto them; the East Sea Fleet then dispatched two formations, each consisting of two SU-27s and two Jian-7s to intercept; seeing that they were intercepted, the U.S. planes turned around and flew back to Japan.⁹²

PRC media sources collaborate heightened tensions in the weeks prior to the April 1 collision, supporting operational opportunism as a driver of the PRC’s behavior.

Contrary to U.S. accounts, PRC accounts implied that the collision resulted from the EP-3 turning into the F-8 Finback. PRC media sources highlighted Foreign Ministry spokesman Zhu’s statements that: “The U.S. plane suddenly took a sharp turn toward our planes and the mainland. Its nose and left wing bumped against the tail of one of our planes, causing it to lose control and crash into the sea.”⁹³ The PRC’s position of U.S. fault transferred into demands for U.S. responsibility, as the *China Daily* reported Foreign Ministry Spokesman Zhu’s April 2 statement: “The direct cause of the damage and crash of the Chinese jet was the sudden movement of the U.S. plane, which veered into the Chinese jet—contravening flight rules.”⁹⁴ PRC accounts disagree over the cause of the incident, which aligns to Shirk’s assessment that the PLAN misreported the encounter.⁹⁵

⁹¹ Ren, “U.S. Military Planes.”

⁹² Ibid.

⁹³ Zhu Bangzao, “Foreign Ministry Spokesman on the True Story of and China’s Stand on a U.S. Military Reconnaissance Plane’s Bumping Against and Destroying a Chinese Military Plane,” Beijing CCTV-1, April 3, 2001, Open Source Center, (CPP20010403000212) CCTV-1 is a PRC national state television station, broadcast in Mandarin.

⁹⁴ “Pilot Missing After U.S. Spy Jet Sparks Plane Crash,” *China Daily* Online, April 2, 2001, Open Source Center, (CPP20010402000010), *China Daily* is China’s official newspaper published in English’.

⁹⁵ Shirk, *Fragile Superpower*, 235.

The 2001 EP-3 collision occurred amidst increased hazardous PLAN airborne intercepts. Reported encounters from December 2000 to the April 1 collision support operational opportunism as a likely driver of this extended behavior. This pattern appears to have been interrupted by the political fallout of the EP-3 incident, after which the U.S. resumed surveillance activities and PLAN aircraft maintained a safe distance, indicating a return to the pre-December 2000 status quo of more benign intercepts.⁹⁶

D. CONCLUSION

Under the volatility of PRC-U.S. maritime development, surveillance confrontations plateaued in March 2001, resulting in the USNS *Bowditch* and EP-3 incidents. Several months of PLAN airborne engagements prior to the EP-3 collision, the operational objectives tied to the harassment of USNS *Bowditch*, and its continued encounters support operational opportunism as a likely driver of the 2001 incidents. Upon this basis, the 2001 geopolitical landscape is explored for additional instigators of the PRC's behavior.

⁹⁶ Plante, "U.S. Quietly Resumes"; Ricks, "Anger over Flights."

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IV. GEOPOLITICAL CASE STUDY (EARLY 2001)

A. INTRODUCTION

In addition to volatile PRC-U.S. maritime relations, and incident-specific evidence supporting operational opportunism as a driver of the PRC's behavior, several geopolitical conditions also likely influenced the 2001 surveillance confrontations. The first geopolitical case study assesses four potential geopolitical drivers coinciding with the 2001 encounters. Following this assessment, the PRC's World Trade Organization (WTO) accession will be discussed as a deterrent to broader adversity during this period. This analysis suggests that these conditions likely blended to shape the 2001 confrontations.

B. CORRELATIVE GEOPOLITICAL DRIVERS (EARLY 2001)

Four potential geopolitical drivers of the PRC's behavior during the 2001 surveillance confrontations include: domestic pressures, issue elevation, political reaction, and political linkage. Evidence from the surrounding landscape supports each of these instigators, exposing diverse influences upon the PRC's behavior.

1. Domestic Pressures

PRC bureaucratic processes coincided with the 2001 surveillance confrontations, supporting this domestic pressure as a first potential geopolitical driver that shaped these encounters. Bureaucratic pressures were likely most influential near the National People's Congress (NPC) session in early March 2001, limiting this factor's viability as a significant driver across the entire late 2000 and early 2001 confrontations; however, these pressures may have shaped the timings or hype surrounding specific March encounters. In 2001, the annual NPC session was held from March 5 to 15.⁹⁷ David Shambaugh outlines this meeting's significance for the PLA, and the navy: "In March of every year, at the National People's Congress, the annual national and defense budgets

⁹⁷ Guo Xiaohong, "NPC Session Fruitful," China Internet Information Center (CIIC), last modified March 15, 2001, <http://www.china.org.cn/english/9215.htm>. The CIIC is an official PRC government site.

are announced by the minister of finance. This figure (for defense) should be viewed as both the culmination and initiation of the centralized defense budget process. That is, the total figure announced is both the outcome of a year-long bidding and negotiating process and the catalyst for the next budget cycle.”⁹⁸ The PLAN’s budget is linked to security dynamics. Redden and Saunders outline several PLAN benefits from defending maritime sovereignty, including: “clout in inter-service debates...public support, and...increased resources for naval modernization.”⁹⁹ According to *The Economist*, on March 6, 2001, the PRC “announced an increase of 18% in its defence budget, the biggest for 20 years.”¹⁰⁰ Coincidentally, two consecutive airborne incidents occurred on March 6 and 7, 2001, just as this figure was published; these incidents may have been viewed as peripheral maritime security threats, supplying a degree of political justification for this budget or clout for the next “bidding and negotiating process” about to commence.¹⁰¹ Although less synchronous, the 2001 *Bowditch* incident occurred just over one week after the 2001 NPC’s conclusion, also supporting bureaucratic domestic pressures as a driver of the PRC’s behavior during this encounter. However, bureaucratic pressures were likely less relevant when the hazardous intercepts began in December 2000, or during the April 1 intercept that led to the EP-3 incident, exposing the limitations of this assertion.

2. Issue Elevation

Shifting PRC-U.S. relations under the new Bush presidency correlated to the late 2000 and early 2001 broader period of surveillance confrontations, supporting issue elevation as a second potential geopolitical driver across these encounters. Although no particular incident can be firmly tied to bilateral discussions prior to the fallout of the accidental EP-3 collision on April 1, correlative evidence supports this factor’s acceleration and shaping of the PRC’s broader pattern of harassment. Airborne intercepts challenging U.S. surveillance activities were an established trend, based upon national

⁹⁸ David L. Shambaugh, *Modernizing China’s Military: Progress, Problems, and Prospects* (Berkeley: University of California, 2004), 205.

⁹⁹ Redden, “Managing Sino-U.S.,” 19.

¹⁰⁰ “The Uneasy Triangle,” *The Economist*, March 15, 2001, <http://www.economist.com/node/532643>.

¹⁰¹ Ren, “U.S. Military Planes”; Shambaugh, *Modernizing China’s Military*, 205.

differences in the maritime domain; however, the December 2000 and March 2001 intensification of these confrontations paralleled heightened PRC-U.S. adversities surrounding the new Bush Presidency, supporting broad issue elevation during a period of enhanced political efficiency as an instigator that further accelerated this behavior.¹⁰² A March 26 *Wen Hui Bao* article that was published between the 2001 incidents expressed PRC perceptions of instability following U.S. presidential transitions: “General knowledge of politics and diplomacy tells us that after the new U.S. Government took office, the run-in period of Sino-U.S. relations is often pregnant with destabilizing factors.”¹⁰³ Yu Wanli also highlights a basis for the PRC’s concerns from George W. Bush’s November 19, 1999 campaign statement: “China should be seen as a competitor, not a partner and treated without ill will but without illusions.”¹⁰⁴ A January 5, 2001 *China Daily* article also stated: “people’s fears stem from Bush’s election speech, in which he...insisted that China is Washington’s strategic rival rather than its partner.”¹⁰⁵ Concerns in the PRC grew after George W. Bush’s confirmed presidency on December 12, 2000, at the start of a period in which instabilities in PRC-U.S. relations were accompanied by shifting bilateral policy dynamics. In late 2000, the origin of this period coincided with a hazardous escalation of airborne intercepts, supporting that the pattern of surveillance confrontations over the ensuing months might have been a broad initiative to elevate maritime surveillance issues during the start of this dynamic period of enhanced political efficiency.¹⁰⁶

¹⁰² Ricks, “Anger over Flights.”

¹⁰³ Yang Jiemian: “Expanding Consensus, Narrowing Differences, Stabilizing Relations, and Continuing To Advance—Analyzing Vice Premier Qian’s U.S. Visit,” *Wen Hui Bao*, March 26, 2001, Open Source Center (CPP20010330000034). The *Wen Hui Bao* is a daily newspaper published in Shanghai, which has an intellectual audience across the PRC.

¹⁰⁴ Yu Wanli, “Breaking the Cycle?: Sino-U.S. Relations under George W. Bush Administration,” in *China’s Shift: Global Strategy of the Rising Power*, ed. Masafumi Iida (Tokyo: National Institute for Defense Studies, 2009), 84.

¹⁰⁵ Yan Xuetong, “Peace Must Top Bush’s Taiwan Policy,” *China Daily*, January 5, 2001, Open Source Center, (CPP20010105000015). This article is an opinion piece by the executive director of the Institute of International Studies at Tsinghua University.

¹⁰⁶ Kan, “China-U.S. Aircraft Collision,” 14.

After President Bush's inauguration on January 20, 2001, several bilateral issues intensified in March, a month also containing an initial high-level diplomatic visit by Vice Premier Qian, displaying further correlation between these dynamics. While Vice Premier Qian's visit specifically focused on higher-profile issues, the intensification of surveillance confrontations amidst other heightened adversities supports broad issue elevation as a driver of the PRC's behavior. From a PRC perspective, Yu states, "in order to alleviate the cyclical impact brought about by George W. Bush taking office, the Chinese government adopted a series of active diplomatic initiatives."¹⁰⁷ These initiatives included a diplomatic visit by PRC Vice Premier Qian Qichen and visits by two former ambassadors in February and March 2001 "to communicate with the U.S. government and people, nevertheless, all these diplomatic efforts were soon covered by the [EP-3 incident]."¹⁰⁸ Vice Premier Qian met with several U.S. leaders from March 21 to 23, including: Secretary of State Colin Powell on March 21; President Bush, Secretary of Defense Rumsfeld, and National Security Advisor Rice on March 22; and Vice President Cheney on March 23.¹⁰⁹ The 2001 *Bowditch* incident also occurred on March 23, the last day of these discussions, which largely focused on Taiwan arms sales, human rights, and the PRC's WTO accession.¹¹⁰ There is no public record of maritime surveillance and sovereignty discussions during these talks, despite a period of hazardous intercepts and a diplomatic protest in December. These dynamics weaken issue elevation directed towards this this meeting as a driver of specific 2001 surveillance confrontations. However, parallels between PRC-U.S. political adversities in December 2000 and March 2001, and the intensification of these encounters on top of a pre-established pattern of intercepts based on national disagreements, supports issue elevation as a driver that shaped the PRC's behavior across this period of enhanced political efficiency.

¹⁰⁷ Yu, "Breaking the Cycle," 86.

¹⁰⁸ Ibid.

¹⁰⁹ Vice Premier Qian Qichen Visits the United States of America, Ministry of Foreign Affairs of the People's Republic of China, accessed 16 March 2014, <http://www.fmprc.gov.cn/eng/topics/3755/3756/3786/>.

¹¹⁰ Pedrozo, "Close Encounters," 101; Yang, "Expanding Consensus." Glaser, "U.S. China Relations."

3. Political Reaction

Adverse PRC responses toward several U.S. human rights initiatives correlated to the March 2001 surveillance confrontations, supporting a political reaction as a third potential geopolitical driver that shaped these encounters. This instigator may have shaped the timing or hype surrounding specific incidents under a pre-established pattern of U.S. surveillance harassment, signaling dissatisfaction or shifting focus away from this issue through the redirection of political and media attention. However, the intensification of hazardous intercepts in December 2000 is likely unrelated, and no particular encounter can be firmly tied to this driver, revealing the limitations of this assertion. On January 24, just days into the Bush Presidency, State Department Spokesman Boucher “condemned the crackdown on Falun Gong and called on China to release all religious and political prisoners.”¹¹¹ Bonnie Glaser highlights that on February 26, 2001, the State Department issued a PRC human rights report outlining: “China’s worsening human rights...[and that]...the U.S. will introduce a resolution on China’s human rights practices at the March [United Nations Commission on Human Rights] UNCHR meeting in Geneva.”¹¹² These initial developments underscore several PRC-U.S. human rights tensions emerging shortly into the Bush presidency as a basis of developing adversity surrounding this issue.

PRC-U.S. human rights tensions intensified in late March 2001, supporting a political reaction as a driver that may have shaped these later confrontations. Glaser states that on March 20, “the Senate passes by unanimous consent a resolution that calls on the U.S. to take the lead in organizing multilateral support to obtain passage of a resolution condemning Beijing’s human rights violations in China and Tibet.”¹¹³ A second human rights initiative, House of Congress Resolution (H.Con.Res.) 73, targeted the 2008 Beijing Olympics on March 21. This resolution was passed during Vice Premier Qian’s

¹¹¹ “China Tells U.S. to Butt Out,” *CBS News*, January 25, 2001, <http://www.cbsnews.com/news/china-tells-us-to-butt-out/>.

¹¹² Bonnie S. Glaser, “U.S.-China Relations: First Contact: Qian Qichen Engages in Wide-Ranging, Constructive Talks With President Bush and Senior U.S. Officials,” *Comparative Connections* 3, vol. 1, (April 2001): 32, <http://csis.org/files/media/csis/pubs/0101q.pdf>.

¹¹³ Ibid.

meetings, and just two days before the *Bowditch* incident, stating: “Expressing the sense of Congress that the 2008 Olympic Games should not be held in Beijing unless the Government of the People’s Republic of China releases all political prisoners, ratifies the International Covenant on Civil and Political Rights, and observes internationally recognized human rights.”¹¹⁴ On March 23, 2001, the same day as the *Bowditch* incident, PRC Foreign Ministry spokesman Sun Yuxi responded: “China is firmly opposed to the attempts by some U.S. legislators to block Beijing’s bid to host the 2008 Olympic games...such a farce must meet with rejection from people across the world and people of sports circles from all countries who uphold justice.”¹¹⁵ The precise correlation of the *Bowditch* incident and this initiative’s political fallout supports a political reaction as a driver that may have shaped the pre-established trend of surveillance harassment during this encounter.

On March 25, between the 2001 incidents, President Jiang stated: “It is entirely politically biased to call China a country without democracy and freedoms simply because China’s democracy and political systems differ from those in the West.”¹¹⁶ Rosemary Foot also highlights that “not long into his term Bush sponsored a new resolution at the UNCHR condemning China’s human-rights record.”¹¹⁷ PRC sources describe this initiative, which occurred between the 2001 incidents: “On March 26, 2001, the U.S. put forward a proposal expressing concerns about ‘human rights’ in China at a session of the United Nations Commission on Human Rights in Geneva, the 11th such proposal from the United States since 1990. As previously, the motion failed.”¹¹⁸ This

¹¹⁴ H.Con.Res.73–107th Congress (2001–2002), Library of Congress, accessed March 16, 2014, <http://beta.congress.gov/bill/107th-congress/house-concurrent-resolution/73?q=%7B%22search%22%3A%5B%22107+H.CON.RES.73%22%5D%7D>.

¹¹⁵ “China FM Spokesman Condemns U.S. Congressional Effort to Thwart Beijing Olympic Bid,” *Xinhua*, March 23, 2001, Open Source Center, (CPP20010323000130) *Xinhua* is China’s official English news service, which is based in Beijing.

¹¹⁶ Wu Qimin, “President Jiang Zemin Talks About Sino-U.S. Relations, Motherland’s Reunification, Reform, and Opening Up,” *Renmin Ribao*, March 26, 2001, Open Source Center (CPP20010326000035).

¹¹⁷ Rosemary Foot, “Bush, China and Human Rights,” *Survival* 45, no. 2 (2003): 176, <http://www.tandfonline.com/doi/pdf/10.1080/00396330312331343546>.

¹¹⁸ Lu Qichang “Chronology of China-U.S. Relations,” China Internet Information Center (CIIC), accessed January 22, 2014, <http://www.china.org.cn/english/china-us/26890.htm>.

second initiative was just days prior to the accidental EP-3 collision, supporting a political reaction as a driver which may have further shaped the PRC's behavior in the period surrounding the 2001 encounters. Finally, Foot states that "the [Bush] administration began to develop a more nuanced policy"¹¹⁹ towards PRC human rights reforms following the EP-3 incident. Several March 2001 correlations between PRC-U.S. human rights tensions and the surveillance confrontations support a political reaction as a driver that may have influenced the PRC's behavior during these encounters. This driver could have broadened or intensified the established pattern of harassment towards U.S. surveillance assets to signal dissatisfaction or shift focus away from these emerging human rights initiatives by redirecting political and media attention. However, this driver cannot be firmly linked to any encounter, and was most likely unrelated to the establishment of the broader pattern of hazardous airborne intercepts, exposing the limitations of this assertion.

4. Political Linkage

Taiwan arms sales tensions correlated to the late March and early April 2001 surveillance confrontations, supporting a political linkage as a fourth potential geopolitical driver that shaped these encounters. The initial establishment of hazardous intercepts occurred well prior to an increase in PRC-U.S. Taiwan arms sales tensions in March and April 2001, and there is no firm evidence connecting this driver to specific encounters or of its political leveraging; however, these tensions could have influenced the pre-established pattern of encounters to enhance the PRC's clout towards this issue. Robert Art describes the "fungibility of force," through which political linkage functions: "linkage politics enhances the advantages of being powerful and boosts the fungibility of force by enabling it to cross domains."¹²⁰ The 1979 Taiwan Relation Act's (TRA) governs U.S.-Taiwan arms sales, and Kan outlines the annual basis around which these sales functioned in 2001: "successive Administrations used a process in determining arms sales to Taiwan that became institutionalized as annual rounds of talks with Taiwan

¹¹⁹ Foot, "Bush, China and," 177.

¹²⁰ Robert J. Art, "The Fungibility of Force," in *The Use of Force: Military Power and International Politics*, eds. Robert J. Art and Kenneth Neal Waltz (Lanham: Rowman and Littlefield, 2009), 19.

authorities consisting of several phases leading up to final meetings usually in April.”¹²¹ The first U.S.-Taiwan arms sales talk under President Bush, and last to follow this annual pattern, was scheduled for April 24, 2001, weeks after the confrontations.¹²² Prior to this meeting, from March 14 to 17, Admiral Blair, Commander of Pacific Command (PACOM), visited the PRC “to discuss military activities and plans of the PLA and PACOM, exchange views and enhance mutual understanding, discuss Taiwan, and stress the inclusion rather than the exclusion of China in multilateral activities.”¹²³ On March 14, General Fu Quanyou, Chief of Staff of the PLA, “urged the Bush administration ‘to stop arms sales to Taiwan immediately so as to avoid damaging Sino-U.S. relations,’”¹²⁴ displaying growing PRC-U.S. tensions surrounding this issue.

During Vice Premier Qian’s March 21 meeting with Secretary of State Colin Powell, he stressed that Taiwan was the “core question in China-U.S. relations...[and] it is China’s hope that the U.S. side can handle the question of arms sales to Taiwan...so as to save damages to China-U.S. relations.”¹²⁵ A March 26 *Wen Hui Bao* article, published after Vice Premier Qing’s meetings, reported that President Bush, “still indicated that the United States had yet to make a final decision on the arms sale.”¹²⁶ Taiwan tensions continued through Vice Premier Qian’s meetings and the *Bowditch* incident, evidenced by PRC President Jiang’s March 26 statement: “Over the years, the United States has never ceased selling advanced weapons to Taiwan. It has recognized the one-China principle and made commitments to the government and people of China. But at the same time, it has sold large quantities of advanced weapons to Taiwan. This has in effect

¹²¹ Shirley A. Kan, “Taiwan: Annual Arms Sales Process,” Congressional Research Service (Washington, DC: Library of Congress, June 5, 2001), 1.

¹²² Shirley A. Kan, “Taiwan: Major U.S. Arms Sales Since 1990,” Congressional Research Service (Washington, DC: Library of Congress, September 28, 2001), summary.

¹²³ Kan, “U.S.-China Military Contacts,” 53.

¹²⁴ “China May Determine U.S. Missile Sales To Taiwan,” *USA Today*, June 19, 2001, <http://usatoday30.usatoday.com/news/world/2001-03-15-chinamissiles.htm>.

¹²⁵ Vice Premier Qian Qichen Holds Talks with U.S. Secretary of State Colin Powell, last modified March 22, 2001, <http://www.fmprc.gov.cn/eng/topics/3755/3756/3786/t19332.shtml>.

¹²⁶ Yang: “Expanding Consensus, Narrowing.”

abetted the separatist activities for ‘Taiwan independence.’”¹²⁷ The 2001 coincidence between the surveillance confrontations and growing tensions leading to the first Taiwan arms sales talks under the Bush presidency supports a political linkage as a driver that may have influenced the PRC’s behavior. This factor may have shaped the pre-established pattern of surveillance harassment to enhance the PRC’s fungible political power. However, even though this driver correlates to the late March confrontations, it cannot be firmly linked to any encounter, there is no evidence that linkage politics occurred, and it was not likely present in the establishment of the extended pattern of hazardous airborne intercepts, exposing the limitations of this assertion.

C. A DETERRENT TO ADVERSITY: THE PRC’S WTO ACCESSION (2001)

In contrast to several potential drivers of PRC-U.S. tensions that may have shaped the 2001 confrontations, the final segment of the PRC’s WTO accession also transpired in early 2001, supporting its deterrence of broader adversity during this period. Cooperative PRC-U.S. efforts surrounding this issue likely mitigated adversity following these encounters. China became a member of the General Agreement on Tariffs and Trade (GATT) in 1948, but after the 1949 revolution the Western-recognized government on Taiwan renounced membership; in 1986 the PRC “notified the GATT of its wish to resume its status as a GATT contracting party.”¹²⁸ Morrison highlights the importance of WTO membership for the PRC’s economic power recognition, rule-influence, dispute resolution, reform legitimization, and Permanent Normal Trade Relations (PNTR) and Most Favored Nation (MFN) status with the U.S.; consequently, “the United States has played a central role in China’s WTO accession process.”¹²⁹ Prior to Bush’s presidency, President Clinton signed “the U.S.-China Relations Act of 2000 in October...paving the

¹²⁷ Wu, “President Jiang Zemin Talks.”

¹²⁸ World Trade Organization Successfully Concludes Negotiations on China’s Entry, World Trade Organization, last Modified September 17, 2001, http://www.wto.org/english/news_e/pres01_e/pr243_e.htm.

¹²⁹ Wayne M. Morrison, “China and the World Trade Organization,” Congressional Research Service (Washington DC: Library of Congress, 2001), 2.

way for China to join the World Trade Organization in 2001.”¹³⁰ These circumstances underscore a foundation of cooperation around this issue in early 2001, which likely deterred broader adversity.

PRC WTO accession efforts persisted through this period. Kan states the WTO Working Party “met in January 2001, and reportedly made some progress, although a final agreement was not reached...if China does not gain WTO accession by June 2001...President Bush will need to issue a waiver...in order to continue China’s NTR status for an additional year.”¹³¹ In spite of these obstacles, cooperative progress for accession remained the focus. During Vice Premier Qian’s visit, President Bush stated: “the United States supports China’s entry into the world trade body at an early date.”¹³² Glaser also highlights an exchange reported by *Xinhua*, between Chinese trade negotiator Long Yongtu and U.S. Trade Representative Robert Zoellick, alongside Vice Premier Qian’s meetings: “The two officials conducted ‘positive and constructive’ talks on China’s accession to the WTO. Both sides reportedly reaffirmed that China’s early accession will be conducive not only to China and to the United States, but also to strengthening the WTO and the global multilateral economic system.”¹³³ Shortly after the EP-3 incident, Kan highlighted potential implications for the PRC’s WTO accession amidst the political crisis: “A further worsening of political ties could negatively affect the business climate in China for U.S. firms and disrupt negotiations over China’s WTO accession.”¹³⁴ This dynamic highlights the risks involved in surveillance confrontations, in which WTO accession cooperation was nearly undermined by the accidental EP-3 collision and subsequent political crisis. Early 2001 dynamics surrounding the PRC’s

¹³⁰ U.S. Relations With China (1949–Present), Council on Foreign Relations, accessed January 22, 2014, <http://www.cfr.org/china/us-relations-china-1949---present/p17698>.

¹³¹ Kan, “China-U.S. Aircraft Collision,” 24–25.

¹³² U.S. President Meets Vice Premier Qian Qichen, Ministry of Foreign Affairs of the People’s Republic of China, last modified March 23, 2001, <http://www.fmprc.gov.cn/eng/topics/3755/3756/3786/t19333.shtml>.

¹³³ Glaser, “U.S.-China Relations,” 28.

¹³⁴ Kan, “China-U.S. Aircraft,” summary.

WTO accession suggest it likely served as a deterrent to adversity in PRC-U.S. relations surrounding the surveillance confrontations.

D. CONCLUSION

The development of PRC-U.S. maritime relations, the specifics of each incident, and several geopolitical factors, all defined the 2001 surveillance confrontations. Domestic pressures, issue elevation, political reaction, and political linkage were four potential geopolitical drivers that likely influenced the PRC's behavior, while the PRC's WTO accession may have deterred broader adversity. Table 1 highlights several significant events in PRC-U.S. relations surrounding the 2001 surveillance confrontations. The 2009 confrontations are explored across the same dimensions, exposing parallel trends for comparative analysis.

Table 1. Chronology of Early 2001 PRC-U.S. Relations.¹³⁵

Date:	Event Description:
Dec 2000	Hazardous PLAN airborne encounters emerge over an established trend of intercepts.
Dec 12	George W. Bush declared presidential victor.
Dec 28	U.S. formal protest against PRC airborne assertion.
Jan 17, 2001	WTO working group meeting.
Jan 20	President George W. Bush inaugurated.
Jan 24	U.S. State Dept. Spokesman Boucher condemns the PRC's Falun Gong crackdown.
Feb 26	U.S. State Dept. releases adverse PRC human rights report and UNCHR intentions.
Mar 5–15	Annual NPC meeting.
Mar 6	The PRC announces a defense spending increase of 18%, the largest in 20 years.
Mar 6–7	Two notable PRC-U.S. airborne encounters.
Mar 14–17	Adm. Blair, Commander of PACOM visits the PRC for discussions.
Mar 14	PLA Chief of General Staff Fu's comments against U.S.-Taiwan arms sales
Mar 20	Senate Resolution passed for broader U.S. leadership on PRC human rights reforms.
Mar 21–23	Meetings held between Vice Premier Qian and U.S. leaders in Washington.
Mar 21	H.Con.Res. 73 passed toward Beijing Olympic bid for PRC human rights conditions.
Mar 23	PRC Spokesman Sun Yuxi responds critically to human rights resolution.
Mar 23	USNS <i>Bowditch</i> incident.
Mar 25	PRC President Jiang indicates enduring Taiwan and human rights tensions.
Mar 26	U.S. human rights proposal toward the PRC at UNCHR.
Apr 1	EP-3/F-8 Collision.
Apr 24	U.S.-Taiwan arms sales talks.

¹³⁵ Ricks, "Anger over Flights"; Kan, "China-U.S. Aircraft," 1, 24–25; "China Tells U.S."; Glaser, "U.S.-China Relations," 32; Guo, "NPC Session Fruitful"; "The Uneasy Triangle"; Ren, "U.S. Military Planes"; Kan, U.S.-China Military," 53; "China May Determine"; Yang, "Expanding Consensus"; H.Con.Res.73-107th Congress; "China FM Spokesman Condemns"; Pedrozo, "Close Encounters," 101; Wu, "President Jiang Zemin Talks"; Lu, "Chronology of China-U.S."; Kan, "Taiwan: Major U.S. Arms," summary.

V. PRC-U.S. MARITIME DEVELOPMENT (2001–2009)

A. INTRODUCTION

To identify potential drivers of the PRC's behavior during the 2009 surveillance confrontations, the development of PRC-U.S. maritime relations from 2001 to early 2009 is outlined. This progression is defined by the continued evolution of both nations' norms in the offshore domain. This setting is explored to early 2009 as a foundation of the second set of incidents.

B. PRC-U.S. MARITIME RELATIONS (2001–2009)

The development of PRC-U.S. maritime relations to early 2009 was influenced by several interwoven factors, including: international norms, bilateral and multilateral initiatives, and recent dynamics. The historical circumstances discussed in Chapter II maintain a similar influence as they did in 2001. Each of these sub-sets is explored, revealing a relative easing of PRC-U.S. maritime tensions between the 2001 and 2009 surveillance confrontations.

1. International Norms

The 2009 surveillance confrontations were impacted by the development of international norms during the 2000s, which consisted of improved PRC-U.S. relations in the wake of the 9/11 attacks, and attempts to further integrate the PRC into the existing international order to promote stability. The 9/11 attacks on the U.S. occurred just over five months after the 2001 maritime incidents, creating opportunities for advancing PRC-U.S. relations. Glaser highlights “after 9/11, the U.S. intensified its efforts to combat terrorism at home and abroad, and sought to cooperate with a large number of countries, including China.”¹³⁶ Shirk states that in the post 9/11 era, PRC President “Jiang Zemin realized that China had been handed its own period of strategic opportunity that it could exploit to improve relations with the United States and accelerate its domestic economic

¹³⁶ Bonnie S. Glaser, “The Diplomatic Relationship: Substance and Process,” in *Tangled Titans*, ed. David Shambaugh (Lanham: Rowman and Littlefield, 2013), 163.

development.”¹³⁷ Zhang Tuosheng highlights three examples of the PRC’s international integration during this period, including its WTO membership in late 2001, Asia-Pacific Economic Cooperation (APEC) involvement, and the Beijing Olympics of 2008, which all “made China eager to maintain a basically stable and sound relationship with the United States.”¹³⁸ The PRC’s further integration into and acceptance of international norms across the 2000s enabled advancement of many aspects of PRC-U.S. relations, dampening bilateral tensions.

2. Bilateral and Multilateral Initiatives

Bilateral and multilateral initiatives also progressed between 2001 and 2009, which influenced the 2009 surveillance confrontations. Relations were initially strained by the EP-3 incident, particularly in the military to military sphere, as indicated by Kan:

Rumsfeld told reporters on May 8, 2001, that he decided against visits to China by U.S. ships or aircraft and against social contacts, because ‘it really wasn’t business as usual.’ Deputy Secretary of Defense Paul Wolfowitz reported to Congress on June 8, 2001, that mil-to-mil exchanges for 2001 remained under review by Secretary Rumsfeld and exchanges with the PLA would be conducted ‘selectively and on a case-by-case basis.’¹³⁹

Although restrained in the aftermath of the EP-3 collision, bilateral initiatives also grew in the wake of the 9/11 attacks. Kan states that the PRC and U.S. resumed MMCA talks in Guam on September 14–15, 2001, discussing “how to avoid clashes like the one involving the EP-3,”¹⁴⁰ while the Defense Consultative Talks continued on December 9–10, 2002.¹⁴¹ A PRC source indicates that from October 18 to 20, 2001, President Bush attended the APEC summit in Shanghai, and “held a 3-hour talk on China-U.S. relations and [the] Taiwan issue”¹⁴² with PRC President Jiang. Additionally, Kan highlights

¹³⁷ Shirk, *Fragile Superpower*, 245.

¹³⁸ Zhang Tuosheng, “*Managing Sino-American Crisis*,” 392.

¹³⁹ Kan, “U.S.-China Military,” 2.

¹⁴⁰ *Ibid.*, 62.

¹⁴¹ *Ibid.*, 63.

¹⁴² Lu, “Chronology of China-U.S.”

several bilateral interactions that indicate advancing PRC-U.S. ties across this period, including: a spring 2002 visit to Washington by PRC Vice President Hu Jintao; an October 2002 visit to Crawford, Texas by President Jiang Zemin; a 2003 visit by Defense Minister General Cao Gangchuan; and two January 2004 visits to China—one by General Richard Myers the Chairman of the Joint Chiefs of Staff and the other by Deputy Secretary of State Richard Armitage.¹⁴³ Kan highlights the continuation of this trend in the second half of the decade, including: a September 2005 visit to China by Admiral William Fallon, the Commander of PACOM, to improve mil-to-mil relations; an October 2005 visit to China by Secretary of Defense Donald Rumsfeld, “which was long sought by the PLA for the perceived full resumption of the military relationship,”¹⁴⁴ and a July 2006 visit to the U.S. by the Vice Chairman of the Central Military Commission (CMC) General Guo Boxiong, the PLA’s top officer.¹⁴⁵ Bilateral initiatives reveal steadily repairing PRC-U.S. political relations through increased visits and dialogues in the wake of the 9/11 attacks.

During this same period, the PRC made multilateral progress in the maritime domain with ASEAN, signing the “2002 Declaration on the Conduct of Parties in the South China Sea” on November 4, 2002, in which signatories: “reaffirm their respect for and commitment to the freedom of navigation in and overflight above the South China Sea as provided for by the universally recognized principles of international law, including the 1982 UN Convention on the Law of the Sea.”¹⁴⁶ Kraska states that that this initiative helped to “de-escalate sovereignty and jurisdictional disputes in the South China Sea, ...[but shows that]...after the [EP-3] incident...the Chinese government may have been divided on the legality of China’s claims.”¹⁴⁷ Bilateral and multilateral initiatives during the 2000s reveal advancing PRC-U.S. ties following the 9/11 attacks.

¹⁴³ Kan, “U.S.-China Military,” 3.

¹⁴⁴ Ibid.

¹⁴⁵ Ibid., 2–3.

¹⁴⁶ Declaration On the Conduct of Parties In The South China Sea, Association of Southeast Asian Nations, accessed May 15, 2014, <http://www.asean.org/asean/external-relations/china/item/declaration-on-the-conduct-of-parties-in-the-south-china-sea>.

¹⁴⁷ Kraska, “Sovereignty at Sea,” 17.

3. Recent Dynamics

The 2009 surveillance confrontations were also impacted by recent dynamics, which reveal fewer adverse incidents than the 1990s, indicating dampened maritime tensions. The only reported surveillance confrontation from 2001 to 2009 was a second harassment of USNS *Bowditch* on September 19, 2002. Kan states that in “September of 2002, PLA patrol aircraft and ships harassed the unarmed USNS *Bowditch* in international water in the Yellow Sea. The PLA claimed the ship’s surveys violated the PRC’s EEZ. The two countries traded diplomatic protests.”¹⁴⁸ The *New York Times* stated: “The Pentagon spokesman dismissed reports from a Hong Kong newspaper that the *Bowditch* had collided with a Chinese fishing boat on Sept. 19 in the Yellow Sea, about 60 miles off China’s coast. Ms. Zhang [a PRC Foreign Ministry spokeswoman] refused to confirm the report, and the mild tone of her rebuke suggested that Beijing does not plan to make a major issue of the incident.”¹⁴⁹ From the PRC’s perspective, the *Qingnian Cankao* indicated that in the East China Sea on September 19, 2002, PRC warships and Y-8 and Y-12 aircraft monitored and warned *Bowditch*, a reconnaissance vessel shadowed it, and “a Chinese fishing vessel that was operating nearby rammed into the towed sonar of the ‘*Bowditch*’ and knocked off a hydrophone.”¹⁵⁰ The account also states, “the U.S. military has intentionally maintained a low-key stance over this incident.”¹⁵¹ Regardless of whether a collision occurred, harassment generated diplomatic protests on both sides, but the incident appears to be divorced from significant geopolitical trends, supporting operational opportunism as a likely driver of the PRC’s behavior during this encounter.

¹⁴⁸ Kan, “U.S.-China Military,” 62.

¹⁴⁹ Erik Eckholm, “China Complains about U.S. Surveillance Ship,” *New York Times*, September 27, 2002, <http://www.nytimes.com/2002/09/27/world/china-complains-about-us-surveillance-ship.html>.

¹⁵⁰ Xu Bingchuan, “Chinese Fishing Boat Rams into U.S. Spy Ship; Expert on International Issues Says the Incident Would Not Affect Mainstream Sino-U.S. Relations,” *Qingnian Cankao*, September 25, 2002, Open Source Center, (CPP20020926000031), *Qingnian Cankao* is a weekly Internet journal sponsored by the Chinese Communist Party Central Committee’s China Youth League.

¹⁵¹ Ibid.

Several other recent dynamics shaped the setting in which the 2009 incidents occurred. According to Yu, on September 20, 2006, the PRC's Ministry of Foreign affairs expressed concern to the U.S. Embassy over four survey ships in its EEZ that were "seriously infringing upon the ocean rights and interests of China,"¹⁵² however, neither harassment nor further diplomatic action resulted. Kan lists several other significant PRC-U.S. maritime dynamics from 2001 to 2009, including: a Song submarine's approach to the USS *Kitty Hawk* (CVN-63) in October 2006, the PRC suspension of U.S. military exchanges in response to Taiwan arms sales to in October 2008, and the coordination of PRC-U.S. antipiracy operations near Somalia in January 2009.¹⁵³ Recent PRC-U.S. dynamics from 2001 to 2009 indicate a period of dampened tensions in comparison to the previous decade.

C. CONCLUSION

The 2009 surveillance confrontations were shaped by the continued progression of PRC-U.S. maritime relations. This evolution included the enduring influences of adverse historical circumstances, but also witnessed the PRC's greater alignment with international norms, progressing bilateral and multilateral initiatives in the wake of the 9/11 attacks, and recent dynamics that expose a period of dampening tensions across the 2000s. Upon this basis, two nearly simultaneous surveillance confrontations once again transpired within the PRC's EEZ in early 2009, which are explored in the following chapter.

¹⁵² Yu, *Military Activities*, 41.

¹⁵³ Kan, "U.S.-China Military," 67, 70.

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VI. USNS *VICTORIOUS* AND *IMPECCABLE* CASE STUDY (2009)

A. INTRODUCTION

The 2009 USNS *Victorious* and USNS *Impeccable* comprise the second incident case study. Upon an easing of PRC-U.S. maritime tensions, the 2009 incidents are contrasted from both nations' perspectives for potential drivers of the PRC's behavior. Sporadic encounters over a several week period suggest that operational opportunism was likely an instigator of the 2009 confrontations.

B. USNS *IMPECCABLE* INCIDENT (MARCH 5–8, 2009)

The 2009 harassment of USNS *Impeccable* in the South China Sea marked a strong reemergence of surveillance confrontations in the PRC's EEZ. This incident occurred intermittently over a four-day period. U.S. and PRC perceptions of the USNS *Impeccable* incident are contrasted to reconstruct the encounter.

1. U.S. Perceptions

U.S. sources indicate that the USNS *Impeccable* incident began on March 5, 2001, and intensified over the following days. The encounter started when a PLAN vessel crossed 100 yards in front of the USNS *Impeccable*'s bow, after which a PRC Y-12 aircraft conducted 11 low passes in its vicinity, and then the PLAN vessel again crossed *Impeccable*'s bow at close range; two days later, on March 7, "a PRC intelligence collection ship (AGI) challenged USNS *Impeccable* over bridge-to-bridge radio, calling her operations illegal and directing *Impeccable* to leave the area or 'suffer the consequences.'"¹⁵⁴ These initial actions indicate escalated harassment against USNS *Impeccable*, coordinated from multiple PRC agencies in the South China Sea.

According to U.S. accounts, the trend of coordinated harassment plateaued on March 8. Pedrozo describes how "on 8 March 2009, five PRC vessels—a navy intelligence ship, a government fisheries-patrol vessel, a state oceanographic patrol vessel, and two

¹⁵⁴ "RAW DATA: Pentagon Statement on Chinese Incident With U.S. Navy," *Fox News*, March 9, 2009, <http://www.foxnews.com/politics/2009/03/09/raw-data-pentagon-statement-chinese-incident-navy/>.

small fishing trawlers—surrounded and harassed *Impeccable* approximately seventy five miles south of Hainan Island.”¹⁵⁵ McVadon states, “the Chinese crew also attempted to snag the cable for the towed array. The reports suggest danger of collision and injury.”¹⁵⁶ Other media accounts relay that one PRC vessel approached as its sailors waved Chinese flags and the *Impeccable* responded with fire-hoses, after which the Chinese crew stripped down to their underwear.¹⁵⁷ Finally, after informing the PRC vessels that it intended to depart the scene, “two of the PRC vessels stopped directly ahead of USNS *Impeccable*, forcing...an emergency ‘all stop’ in order to avoid collision. They dropped pieces of wood in the water directly in front of *Impeccable*’s path.”¹⁵⁸ Figure 5 depicts the PRC’s harassment of USNS *Impeccable* during this encounter.

Following the confrontation, diplomatic channels were engaged, while the U.S. asserted its right to freedom of navigation in the EEZ, protecting the *Impeccable* under military escort. On the diplomatic front, the PRC Foreign Ministry received a formal protest from the U.S. Embassy in Beijing, while military officials met with the PRC’s defense attaché at the Pentagon on March 9 to discuss the incident.¹⁵⁹ During previously arranged meetings with the PRC’s Foreign Minister Yang on March 11 and 12, Secretary of State Hillary Clinton and President Obama discussed how to reduce tensions and increase dialogue to prevent similar future incidents.¹⁶⁰ Lyle Goldstein states that by March 12: “President Obama ordered the USS *Chung-Hoon* [DDG-93], a guided missile

¹⁵⁵ Pedrozo, “Close Encounters,” 101.

¹⁵⁶ McVadon, “The Reckless,” 2.

¹⁵⁷ “China and America Spar at Sea: Naked Aggression,” *The Economist*, March 12, 2009, <http://economist.com/node/13279348>.

¹⁵⁸ “RAW DATA: Pentagon.”

¹⁵⁹ Ann Scott Tyson, “U.S. Protests Chinese Shadowing in International Waters, *Washington Post*, March 10, 2009. http://articles.washingtonpost.com/2009-03-10/world/36873869_1_chinese-crew-members-ocean-surveillance-ship-chinese-fighters.

¹⁶⁰ “Obama Calls For Improved Military Dialogue Between U.S. and China, After Naval Confrontation,” *Fox News*, March 12, 2009. <http://www.foxnews.com/politics/2009/03/12/obama-calls-improved-military-dialogue-china-naval-confrontation/>.

destroyer, to escort the *Impeccable* as it continued its mission in the South China Sea. Beijing did not elect to escalate the crisis by countering this deployment.”¹⁶¹



Figure 5. PRC vessels blocking *Impeccable* and attempting to snag array.¹⁶²

2. PRC Perceptions

PRC accounts imply that the incident resulted from the *Impeccable*'s intrusion into its EEZ. On March 10, Foreign Ministry spokesman Ma responding to U.S. statements:

U.S. Navy surveillance ship *Impeccable* violated the provisions of relevant international law as well as Chinese laws and regulations, conducting activities in China's exclusive economic zone without Chinese permission. China has made solemn representations with the United States regarding this. We demand that the United States immediately stop related activities and adopt effective measures to avoid a repeat of similar incidents.¹⁶³

¹⁶¹ Lyle J. Goldstein, "Domestic Politics and the U.S.-China Rivalry," in Sumit Ganguly and William Thompson, eds., *Asian Rivalries: Conflict, Escalation, and Limitations on Two-level Games* (Palo Alto: Stanford University Press, 2011), 56.

¹⁶² Ann Scott Tyson, "Navy Sends Destroyer to Protect Surveillance Ship After Incident in the South China Sea," *Washington Post*, March 13, 2009, http://articles.washingtonpost.com/2009-03-13/world/36789905_1_chinese-ships-ocean-surveillance-ship-chinese-vessels; Jim Garamone, "U.S. Will Continue to Sail in International Waters, Official Says," *American Forces Press Services*, March 10, 2009, http://www.navy.mil/submit/display.asp?story_id=43328.

¹⁶³ Xiong Zhengyan and Hou Lijun, "Foreign Ministry Spokesman: U.S. Surveillance Ship '*Impeccable*' Violated International Law and Chinese Law; China Made Solemn Representations," *Xinhua*, March 10, 2009, From Virtual Information Center, Asia-Pacific Daily News Summary, 10 March 2009, 6, Open Source Center (FBS20090311408799).

In the same address, Foreign Minister Ma also stated:

The related U.S. statements seriously contravene facts and confuse right and wrong. For China, this is completely unacceptable. Regarding the issue of foreign ships conducting activities in China's exclusive economic zone, the UN Convention on the Law of the Sea, the PRC Exclusive Economic Zone and Continental Shelf Law, and the PRC Provisions on the Administration of Foreign-Related Maritime Scientific Research all contain clear provisions. The Chinese government has consistently handled such activities strictly in accordance with the above-mentioned provisions.¹⁶⁴

The comments of PLA military officials supported official responses. Rear Admiral Wang Dengping, political commissar of the PLAN Armament Department stated: "Our civilian and military vessels have the right to do things in our exclusive economic zone."¹⁶⁵ PLAN Rear Admiral Zhang Deshun also stated, "The location where the confrontation occurred is our economic territory, where we have sovereignty...it's nonsense that the U.S., which offends international law, should complain about us first."¹⁶⁶ PRC accounts of the USNS *Impeccable* incident assert that it resulted from the vessel's intrusion into the PRC's EEZ, after which its assets responded in accordance with its legal interpretations, supporting operational opportunism as a driver of the PRC's behavior.

The 2009 USNS *Impeccable* incident displayed a renewal of surveillance confrontations involving U.S. surveillance vessels operating in the PRC's EEZ. A second, nearly simultaneous incident involving USNS *Victorious* is investigated, revealing similarities.

¹⁶⁴ Ibid.

¹⁶⁵ Kristie Kwok, "Beijing Says U.S. Navy Broke Law," *South China Morning Post*, March 11, 2009, Open Source Center (CPP20090311715022).

¹⁶⁶ Minnie Chan, "Naval Incident Seen as a Test of U.S.' China Policy," *South China Morning Post*, March 11, 2009, Open Source Center (CPP20090311715031).

C. USNS *VICTORIOUS* INCIDENT (MARCH 4 - MAY 1, 2009)

The 2009 harassment of USNS *Victorious* in the East China Sea marked a parallel resurfacing of surveillance confrontations in the PRC's EEZ. This incident was marked by sporadic confrontations spanning nearly two-months, supporting operational opportunism as a likely driver of the PRC's behavior, in which local commanders challenged U.S. EEZ operations whenever the opportunity appeared across this period. U.S. and PRC perceptions of the incident are contrasted to reconstruct the encounter.

1. U.S. Perceptions

U.S. accounts of the USNS *Victorious* incident indicate that the confrontation began on March 4, 2009, approximately 125 nautical miles from China's coast in the Yellow Sea, with sporadic encounters continuing until May 1. McVadon describes how on March 4, USNS *Victorious*, "experienced harassment by a Chinese Bureau of Fisheries vessel and repeated low-altitude passes by a Chinese navy maritime patrol aircraft."¹⁶⁷ Pentagon statements indicate that on the night of March 4, the Bureau of Fisheries vessel directed a spotlight upon the ship, passed 1400 yards in front of it unannounced, and a Y-12 navy maritime patrol aircraft executed 12 low level passes the following day, at 400 feet above and 500 yards abeam of USNS *Victorious*.¹⁶⁸ Figure 6 depicts USNS *Victorious*, a vessel in the same class as USNS *Impeccable*. U.S. accounts indicate that the *Victorious* incident was similar in disposition to the *Impeccable* incident, which occurred less than a day apart.

¹⁶⁷ McVadon, "The Reckless," 1–2.

¹⁶⁸ "RAW DATA: Pentagon"; Barbara Starr, "Chinese Boats Harassed U.S. Ship, Officials Say," *CNN*, May 5, 2009, <http://edition.cnn.com/2009/WORLD/asiapcf/05/05/china.maritime.harassment/index.html>.



Figure 6. USNS *Victorious*¹⁶⁹

For nearly two months following the March 4 confrontation, other similar cases of harassment transpired, and media sources indicate that, “after the *Impeccable* incidents, the U.S. Navy provided armed warships to escort some USNS ships in the region.”¹⁷⁰ The final confrontation involving USNS *Victorious* occurred on May 1. Similar to previous incidents, the PRC vessels approached USNS *Victorious* within 30 yards in what was deemed an “unsafe and dangerous” fashion; *Victorious* directed its fire hoses upon the vessels, and the harassment continued for approximately an hour until *Victorious* radioed a nearby PRC naval vessel for help, after which the harassment subsided.¹⁷¹ *BBC* reported that when Pentagon spokesman Whitman was asked “why the tone of the U.S. statement was muted this time, he said: ‘we will be developing a way forward to deal with this diplomatically.’”¹⁷² Sporadic encounters between USNS *Victorious* and PRC maritime assets that spanned a two-month period support operational opportunism as a driver of the PRC’s behavior, in which local commanders challenged U.S. surveillance assets whenever the opportunity appeared.

¹⁶⁹USNS *Victorious*, U.S. Navy’s Military Sealift Command, accessed May 14, 2014, <http://www.msc.navy.mil/inventory/images/photos/victorious.jpg>.

¹⁷⁰ Starr, “Chinese Boats Harassed.”

¹⁷¹“Pentagon Warns Over Chinese Boats,” *BBC*, May 5, 2009, <http://news.bbc.co.uk/2/hi/asia-pacific/8034385.stm>.

¹⁷² *Ibid.*

2. PRC Perceptions

The PRC's reactions to the USNS *Victorious* incident are similar to those following the USNS *Impeccable* incident. On May 6, PRC Foreign Ministry Spokesman Ma made a similar statement in response to the May 1 *Victorious* incident as he did on March 10, after the *Impeccable* incident:

When dealing with the issue of foreign vessels' operations in China's exclusive economic zone, the Chinese Government consistently and strictly abides by the UN Convention on the Law of the Sea, the PRC Law on the Exclusive Economic Zone and the Continental Shelf, and the PRC Regulations on the Management of Foreign-Related Marine Scientific Research. The fact was: The U.S. naval surveillance vessel USNS *Victorious* violated the provisions of the relevant international law and Chinese law and regulations by entering and operating in China's exclusive economic zone in the Yellow Sea without China's prior permission. China has expressed its concern in this regard and urged the United States to take effective measures to prevent recurrence of similar incidents.¹⁷³

PRC accounts of the USNS *Victorious* incident assert that it resulted from the vessel's intrusion into the PRC's EEZ, and its assets responded in accordance with its legal interpretations.

The 2009 USNS *Victorious* incident displayed a parallel surveillance confrontation involving U.S. surveillance assets operating within the PRC's EEZ. Sporadic encounters over nearly two-months support operational opportunism as a likely driver of the PRC's behavior across this period, in which local commanders challenged U.S. surveillance assets whenever the opportunity appeared. Table 2 outlines the major characteristics of the five surveillance confrontations covered in this study.

D. CONCLUSION

Under the easing tensions of PRC-U.S. maritime development between 2001 and 2009, the PRC executed a new series of surveillance confrontations in March 2009, resulting in the USNS *Impeccable* and *Victorious* incidents. The sporadic nature of these

¹⁷³ "Chinese Foreign Ministry Spokesman Answers a Reporter's Question on the Issues of a U.S. Naval Surveillance Vessel that Entered and Operated in China's Exclusive Economic Zone in the Yellow Sea," *Xinhua*, May 6, 2009, Open Source Center (CPP20090506073002).

encounters over nearly a two-month period indicates operational opportunism as a likely driver of these encounters, in which local commanders challenged U.S. surveillance assets whenever the opportunity appeared. Upon this basis, the 2009 geopolitical landscape is explored for additional instigators of the PRC's behavior.

Table 2. PRC-U.S. Surveillance Confrontations.¹⁷⁴

<u>Details</u>	<u>2001 Incidents</u>		<u>2002 Incident</u>	<u>2009 Incidents</u>	
Aircraft or Ship	USNS <i>Bowditch</i>	EP-3	USNS <i>Bowditch</i>	USNS <i>Impeccable</i>	USNS <i>Victorious</i>
Date	March 23, 2001	April 1, 2001	September 19, 2002	March 5 to 8, 2009	March 4 to May 1, 2009
Location	East China Sea	South China Sea	East China Sea	South China Sea	East China Sea
PRC Units Involved	<u>1.</u> Jianghu Frigate <u>2.</u> MP Aircraft	<u>1.</u> 2- F-8II Finback	<u>1.</u> PLAN AGI <u>2.</u> PLAN Y-8 and Y-12 <u>3.</u> Fishing Trawlers	<u>1.</u> PLAN AGI <u>2.</u> Y-12 MPA <u>3.</u> Fisheries Patrol Vessel <u>4.</u> State Oceanographic Vessel <u>5.</u> 2- Fishing Trawlers	<u>1.</u> MP Aircraft <u>2.</u> Fishing Vessels
PRC Agencies Involved	<u>1.</u> PLAN	<u>1.</u> PLAN	<u>1.</u> PLAN <u>2.</u> Bureau of Fisheries.	<u>1.</u> PLAN <u>2.</u> Bureau of Fisheries <u>3.</u> State Oceanographic Institute	<u>1.</u> PLAN <u>2.</u> Bureau of Fisheries
Escalation Period	1 Day, But Placated	Several Months	1 Day	4 days	Sporadic Over 2 Months
U.S. Reassertion	Armed Escort Several Days Later	Immediate Naval Assertion, Airborne Surveillance 37 Days Later	No U.S. Reported Surveillance Interruptions	Armed Escort Shortly After Incident	Continually Over A 2-Month Period
Diplomacy	Protest to PRC Foreign Ministry	High Level Diplomacy	Mutual Diplomatic Protests, But Muted Tones	High Level Diplomacy	Initial High Level Diplomacy Then Muted Tones

¹⁷⁴ Pedrozo, "Close Encounters," 101; Kan, "China's Military and Security," 5; Pedrozo, "The U.S.-China Incidents," 211; Ren, "U.S. Military Planes," Blair, "The April 2001, 378; Kan, "China-U.S. Aircraft Collision," 1, 14; Osborn, Interview; "Grounded in Hainan"; Plante, "U.S. Quietly Resumes"; Kan, "U.S.-China Military," 62; Eckholm, "China Complains about U.S."; Xu, "Chinese Fishing Boat Rams"; "RAW DATA: Pentagon"; McVadon, "The Reckless," 1-2; "China and America Spar"; Tyson, "Navy Sends Destroyer"; Tyson, "U.S. Protests Chinese"; "Obama Calls For Improved"; Goldstein, "Domestic Politics"; Starr, "Chinese Boats Harassed"; "Pentagon Warns Over."

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VII. GEOPOLITICAL CASE STUDY (EARLY 2009)

A. INTRODUCTION

In addition to a relative easing of maritime tensions, and incident-specific evidence supporting operational opportunism as a driver of the PRC's behavior, several geopolitical conditions also likely influenced the 2009 surveillance confrontations. The second geopolitical case study assesses four potential geopolitical drivers that coincided with the 2009 encounters. Following this assessment, the Great Recession's dynamics will be discussed as a deterrent to broader adversity during this period. This analysis suggests that these conditions likely blended to shape the 2009 confrontations.

B. CORRELATIVE GEOPOLITICAL DRIVERS (EARLY 2009)

Four potential geopolitical drivers of the PRC's behavior during the 2009 surveillance confrontations include: domestic pressures, issue elevation, political reaction, and political linkage. Evidence from the surrounding landscape supports each of these instigators, exposing diverse influences upon the PRC's behavior.

1. Domestic Pressures

PRC bureaucratic processes and a PLAN anniversary coincided with the 2009 surveillance confrontations, supporting domestic pressure as a first potential geopolitical driver that shaped these encounters. Bureaucratic pressures were likely most influential surrounding the NPC in early March, limiting its viability as a significant driver of the confrontations across the early 2009 period; however, this factor may have shaped the timings or hype surrounding specific early March encounters. On March 4, the same day that *Victorious* harassment commenced, and one day before the March 5 to 13 NPC session, the PRC announced a 14.9% military budget increase.¹⁷⁵ On March 11, during escalated maritime tensions, the *South China Morning Post* referenced this figure in the

¹⁷⁵ "China to Boost Military Spending," *BBC News*, March 4, 2009, <http://news.bbc.co.uk/2/hi/asia-pacific/7922699.stm>; "China's Top Legislature Ends Annual Session, Calling for Unison Actions to Combat Crisis," *Xinhua*, March 13, 2009, http://news.xinhuanet.com/english/2009-03/13/content_11003441.htm.

context of “China’s ambitions to become a naval power with global reach,”¹⁷⁶ and that “China’s military power is growing steadily, a fact underscored by last week’s announcement that the Chinese defense budget will increase by nearly 15 percent this year despite the economic slump.”¹⁷⁷ The 2009 PLAN budget was subject to Shambaugh’s annual March cycle, and Redden and Saunder’s assertion that the PLAN defense of maritime sovereignty promotes its modernization resources.¹⁷⁸ Following these confrontations, PRC Foreign Ministry Spokesman Ma asserted that they were “activities in China’s exclusive economic zone without Chinese permission;”¹⁷⁹ therefore, these incidents were likely viewed as peripheral maritime security threats, supplying a degree of political justification for this budget or additional clout for the next “bidding and negotiating process”¹⁸⁰ about to commence. On March 13, shortly after the 2009 incidents, the *China Daily* reported that PRC President Hu spoke to PLA officers during the NPC, stating the need to “vigorously advance modernization of national defense and the military...staunchly defend national sovereignty, security and territorial integrity, and provide a powerful support and assurance for protecting national interests and broad social stability.”¹⁸¹ The 2009 surveillance confrontations occurred in conjunction with the start of the annual NPC and its accompanying PLA budgetary cycle, supporting bureaucratic domestic pressures as a driver that may have influenced the PRC’s behavior. This driver may have shaped the timing or hype related to the early March encounters, but was likely less relevant during the later incidents, and was not likely the primary driver of the broader confrontational pattern.

Evidence supporting domestic pressures is also loosely correlated to the end of the 2009 confrontations, which may have shaped the PRC’s behavior to enhance pride and

¹⁷⁶ Michael Richardson, “Ripple Effect,” *South China Morning Post Online*, March 11, 2009, Open Source Center, (CPP20090311715033).

¹⁷⁷ Ibid.

¹⁷⁸ Shambaugh, “Modernizing China’s Military,” 205; Redden, “Managing Sino-U.S. Air,” 19.

¹⁷⁹ Xiong, “Foreign Ministry Spokesman: U.S. Surveillance.”

¹⁸⁰ Shambaugh, *Modernizing China’s Military*, 205.

¹⁸¹ “From the Foreign Press,” *China Daily Online*, March 13, 2009, Open Source Center (CPP20090313968023).

national support of its maritime forces surrounding the PLAN's 60-year anniversary on April 23. Delegations from 29 nations visited Qingdao for this anniversary, and the following day, President Hu stated the PLAN "should comprehensively push forward its modernization to constantly enhance its capability to carry out its missions in the new century and new phase; ...[however,]...the country's military build-up was purely defense-oriented."¹⁸² This statement occurred shortly before the final harassment against USNS *Victorious* concluded on May 1, loosely correlating domestic pressures to the later confrontations during this period. The NPC, PLA budgetary cycle, and the 60-year PLAN anniversary all correlated to the 2009 surveillance confrontations, and although these factors cannot be firmly connected to the origins of any particular incident, they may have shaped the timing or hype of specific encounters for political purposes.

2. Issue Elevation

Shifting relational norms, initial diplomacy under the new Obama presidency, and an UNCLOS deadline correlated with early 2009 surveillance confrontations, supporting issue elevation as a second potential geopolitical driver that shaped these encounters. The emergence of the early March 2009 confrontations paralleled the convergence of many bilateral issues surrounding an important diplomatic exchange early into the Obama presidency, revealing their reappearance during a period of enhanced political efficiency. Unlike 2001, evidence in 2009 indicates maritime surveillance issues were integrated into important political discussions, supporting this driver's applicability, both across early 2009 and as a basis of specific early encounters. President Obama was inaugurated on January 20, 2009. The first major U.S. diplomatic initiative toward the PRC was Secretary of State Hillary Clinton's visit from February 20 to 22, 2009, which sought "to further develop a positive, cooperative relationship."¹⁸³ According to the *People's Daily*, PRC President Hu Jintao acknowledged that the visit "reflects the importance the new U.S. administration puts on developing relations with China and other Asian

¹⁸² "Chinese President Hu Urges Further Modernization of PLA Navy," *Window of China*, Xinhua News Agency, April 25, 2009, http://news.xinhuanet.com/english/2009-04/25/content_11252438.htm.

¹⁸³ Secretary Clinton: Travel to Asia, U.S. Department of State, accessed January 30, 2014, <http://www.state.gov/secretary/20092013clinton/trvl/2009/116166.htm>.

countries.”¹⁸⁴ On February 21, during Secretary Clinton’s visit to the PRC, a joint press conference was held in which Foreign Minister Yang stated: “The upcoming meeting between President Hu Jintao and President Barack Obama during the G-20 London financial summit in early April will be of great significance. The two sides will make careful preparations for the meeting, and ensure its success.”¹⁸⁵ Secretary Clinton also stated: “I have invited the foreign minister to visit Washington during the week of March 9th, to work with us as both our countries prepare for the April G-20 summit in London.”¹⁸⁶ On March 7, the PRC confirmed Foreign Minister Yang’s U.S. visit from March 9 to 13, which sought to “exchange views on the growth of Sino-U.S. relations in the new phase and regional and global issues of common concern.”¹⁸⁷ The visit’s confirmation correlated to escalating harassment upon *Victorious* and *Impeccable* from March 4 to 8, indicating a parallel development of the surveillance confrontations and this important diplomatic exchange. According to the *South China Morning Post*, Minister Yang’s March 12 meeting with President Obama “tried to focus on tackling a deepening economic crisis and defuse tensions over a confrontation at sea and Tibet,”¹⁸⁸ suggesting an interrelation of surveillance and harassment tensions and broader policy discussions, which supports issue elevation as a driver of these confrontations. EEZ surveillance operations had been a standing dispute between the U.S. and PRC, particularly since the late 1990s, but the continuous challenge of these activities would likely have been detrimental to bilateral relations; therefore, it is most likely that U.S. surveillance operations were once again contested during a period of enhanced political efficiency in early 2009. The infusion of surveillance issues into specific negotiations directly after the initial 2009 surveillance confrontations likely reflects a calculation of

¹⁸⁴“Chinese President Meets U.S. Secretary of State,” *People’s Daily*, February 22, 2009, <http://english.peopledaily.com.cn/90001/90776/90883/6598048.html>.

¹⁸⁵ Secretary Clinton’s Press Conference with the Chinese FM,” *Real Clear Politics*, February 21, 2009, http://www.realclearpolitics.com/articles/2009/02/secretary_clintons_press_confe.html.

¹⁸⁶ Ibid.

¹⁸⁷ “Chinese FM to Visit the United States,” China Internet Information Center (CIIS), last modified March 7, 2009, http://www.china.org.cn/international/2009-03/07/content_17397222.htm.

¹⁸⁸ “U.S. Talks Focus on Economic Crisis and Defusing Tensions,” *South China Morning Post Online*, March 13, 2009, Open Source Center (CPP20090313715005).

this efficiency, supporting issue elevation as a driver of the PRC's behavior during the March 4, 5, 7, and 8 encounters.

Evidence supporting issue elevation also appears across the broader period of confrontations in 2009, supporting this driver as a source of the PRC's behavior. A second likely display of issue elevation is indicated during Presidents Obama and Hu's first meeting at the G-20 on April 2. During a press conference following this exchange, PRC Foreign Ministry spokesperson Qin Gang was asked: "Did President Hu Jintao or President Obama discuss the confrontation between the Chinese and U.S. vessels on the South China Sea? Have they reached any consensus on how to prevent similar incidents?"¹⁸⁹ Minister Qin replied: "As far as I know, they touched upon relevant issues whereas China has expounded on its position."¹⁹⁰ A final likely display of issue elevation occurred when Admiral Gary Roughead, CNO, visited the PRC for the PLAN's 60-year anniversary on April 18; he spoke with the PLAN Commander, Vice Admiral Wu Shengli, discussing the recent maritime incidents, cooperative ventures, future MMCA meetings, and the military-to-military relationship.¹⁹¹ These discussions display a third injection of maritime surveillance and sovereignty issues into bilateral discussions, supporting issue elevation as a driver of the PRC's behavior across this period. Vice Minister Yang's March 11 and 12 meetings shaped the first meeting between Presidents Obama and Hu on April 2, and became the venue for converging PRC-U.S. political pressures, to include issues of maritime surveillance and sovereignty; this dynamic persisted across three significant meetings, supporting issue elevation as a driver of the PRC's behavior during this broader period of enhanced political efficiency.

An UNCLOS intricacy also correlated to the 2009 confrontations, which placed EEZ claims at a critical juncture, supporting international issue elevation as a geopolitical driver across this same period. Although UNCLOS claims may have been influential

¹⁸⁹ Foreign Ministry Spokesperson Qin Gang's Regular Press Conference on April 2, 2009, Permanent Mission of the People's Republic of China to the UN, April 3, 2009, <http://www.china-un.org/eng/fyrth/t555860.htm>.

¹⁹⁰ Ibid.

¹⁹¹ Admiral Gary Roughead Press Conference, United States Ambassador to China, April 21, 2009, <http://beijing.usembassy-china.org.cn/042109p.html>.

upon the confrontations, the U.S. was not a South China Sea territorial claimant, and there is no direct linkage between the UNCLOS process and the U.S. surveillance activities. These factors suggest that this issue may have reinforced the PRC's behavior underlying the broad period of encounters, but it was not likely a primary driver of specific incidents. UNCLOS Article 4, Annex II states: "Where a coastal State intends to establish, in accordance with article 76, the outer limits of its continental shelf beyond 200 nautical miles, it shall submit particulars of such limits to the Commission along with supporting scientific and technical data as soon as possible but in any case within 10 years of the entry into force of this Convention for that State."¹⁹² The UN states: "the date of commencement of the 10-year time period for making submissions to the Commission is 13 May 1999."¹⁹³ Leading up to the May 13, 2009 deadline, UNCLOS signatories bordering the South China Sea submitted several EEZ claims. On February 17, 2009, the Philippines House of Representatives and Senate amended Republic Act No. 3046, "An Act to Define the Baselines of the Territorial Sea of the Philippines," affirming its claims, particularly toward the Scarborough Shoal and the Kalayaan (Spratly) Islands.¹⁹⁴ On February 18, PRC Vice Minister Wang lodged a protest with the Philippine Embassy, stating "Huangyan Island [Scarborough Shoal] and Nansha Islands [the Spratly Islands] have always been inalienable parts of the Chinese territory...Territorial sovereignty claims...by any other country were illegal and invalid."¹⁹⁵ President Macapagal-Arroyo approved The Philippines' act on March 10, 2009.¹⁹⁶ On April 8, the PRC lodged a protest with the UN against the Philippine's

¹⁹²Annex II. Commission on the Limits of the Continental Shelf, United Nations Division for Ocean Affairs and the Law of the Sea, accessed February 25, 2014, https://www.un.org/depts/los/clcs_new/documents/annex2.htm.

¹⁹³ Issues with Respect to Article 4 of Annex II to the Convention (Ten Year Time Limit For Submissions), United Nations Division for Ocean Affairs and the Law of the Sea, accessed February 12, 2014, http://www.un.org/Depts/los/clcs_new/issues_ten_years.htm.

¹⁹⁴ R.A. 9522, The LawPhil Project, accessed May 19, 2014, http://www.lawphil.net/statutes/repacts/ra2009/ra_9522_2009.html. The LawPhil Project is sponsored by the Arellano Law Foundation, which publishes Philippine laws and legal information to the Internet.

¹⁹⁵ "China Lodges Stern Protest over Baselines Bill of the Philippines," Consulate-General of the People's Republic of China in San Francisco, February 19, 2009, <http://www.chinaconsulatesf.org/eng/xw/t538242.htm>.

¹⁹⁶ R.A. 9522.

pending claim, which was submitted April 21.¹⁹⁷ Malaysia and Vietnam also submitted a joint claim on May 6, to which the PRC replied on May 7, stating that China “has indisputable sovereignty over the islands in the South China Sea and the adjacent waters as well as the seabed and subsoil thereof.”¹⁹⁸ UNCLOS claims persisted in parallel to the 2009 surveillance confrontations, which lasted until May 1, supporting the international elevation of maritime sovereignty as an issue that shaped the PRC’s confrontational behavior in early 2009. Although the U.S. is not a South China Sea claimant, and there are no indications that the confrontations directly influenced this dynamic, it likely reinforced the PRC’s confrontational behavior across this period. Parallels between the 2009 surveillance confrontations and shifting relational norms, important diplomatic exchanges under the new Obama presidency, and an UNCLOS deadline all support issue elevation as a driver of the PRC’s behavior during specific initial encounters and across the broader early 2009 period of enhanced political efficiency.

3. Political Reaction

Adverse PRC responses to U.S. human rights initiatives correlated to the early March 2009 surveillance confrontations, supporting a political reaction as a third potential geopolitical driver that influenced these encounters. This instigator may have shaped the timing or hype of specific incidents to signal dissatisfaction or shift focus away from this issue by redirecting political and media attention. However, specific incidents cannot be firmly tied to this factor, and the later confrontations appear unrelated, revealing the limitations of this assertion. On February 21, during Secretary of State Hillary Clinton’s visit to Beijing, she stressed the ascendancy of PRC-U.S. cooperation over other objectives, including human rights initiatives, stating: “Successive administrations and Chinese governments have been poised back and forth on these issues, and we have to continue to press them. But our pressing on those issues can’t

¹⁹⁷ Philippines, The United Nations Division For Ocean Affairs and Law of the Sea, last modified September 26, 2012, <http://www.un.org/depts/los/LEGISLATIONANDTREATIES/STATEFILES/PHL.htm>.

¹⁹⁸ Joint Submission by Malaysia and the Socialist Republic of Viet Nam, Commission on the Limits of the Continental Shelf (CLCS) Outer Limits of the Continental Shelf, last modified May 3, 2011, http://www.un.org/depts/los/clcs_new/submissions_files/submission_mysvnm_33_2009.htm.

interfere with the global economic crisis, the global climate change crisis, and the security crisis.”¹⁹⁹ Jeffrey Bader, the National Security Council Director for East Asian Affairs, recalled a U.S. domestic backlash from Secretary Clinton’s statements: “Editorials and NGO comments purported to detect either a Clinton or Obama doctrine in these short remarks, suggesting they signified that Secretary Clinton and the Obama administration were indifferent to human rights and were prepared to sacrifice human rights progress for global cooperation.”²⁰⁰ On February 25, amidst this fallout, the U.S. State Department released its annual report on PRC human rights, stating: “The [PRC] government’s human rights record remained poor and worsened in some areas.”²⁰¹ PRC Foreign Ministry spokesman Ma replied on March 2, two days before the *Victorious* incident, stating: “We resolutely oppose any country in any way interfering in China’s internal affairs under the pretext of human rights. We urge the U.S. side to reflect on its own human rights problems, stop acting as a ‘human rights guardian’ and stop interfering in other’s internal affairs by releasing human rights reports.”²⁰² These events display growing U.S. human rights pressures that coincided with the 2009 confrontations, supporting a political reaction as a geopolitical driver that may have influenced the early March encounters.

March 10, 2009 marked the Tibetan uprising’s 50-year anniversary, which became a focus of emerging U.S. human rights pressures, further correlating this dynamic to the surveillance confrontations. The PRC foresaw the potential for impending tensions, inferred from its March 2 preemptive publishing of the “White Paper: 50 Years of

¹⁹⁹ “Clinton: Chinese Human Rights Can’t Interfere With Other Crisis,” *CNN*, February 22, 2009, <http://www.cnn.com/2009/POLITICS/02/21/clinton.china.asia/>.

²⁰⁰ Jeffrey A. Bader, *Obama and China’s Rise: An Insider’s Account of America’s Asia Strategy* (Washington, DC: Brookings Institution Press, 2011), 15–16.

²⁰¹ 2008 Human Rights Report: China (Includes Tibet, Hong Kong, and Macau), U.S. Department of State, February 25, 2009, <http://www.state.gov/j/drl/rls/hrrpt/2008/eap/119037.htm>.

²⁰² Foreign Ministry Spokesperson Ma Zhaoxu’s Remarks on U.S. State Department Releasing Country Reports on Human Rights Practices, Permanent Mission of the People’s Republic of China to the UN, March 2, 2009, <http://www.china-un.org/eng/fyrth/t539879.htm>.

Democratic Reform in Tibet,” defending its actions in the province.²⁰³ Harassment upon *Victorious* commenced two days later on March 4, and plateaued on March 8 toward *Impeccable*. On the March 10 Tibetan anniversary, the Dalai Lama stated that PRC rule has “thrust Tibetans into such depths of suffering and hardship that they literally experienced hell on earth.”²⁰⁴ On March 11, H.Con.Res 226 was passed, calling for “the Government of the People’s Republic of China to respond to the Dalai Lama’s initiatives to find a lasting solution to the Tibetan issue, cease its repression of the Tibetan people, and to lift immediately the harsh policies imposed on Tibetans.”²⁰⁵ This resolution passed the same day as Secretary Clinton’s March 11 meeting with Foreign Minister Yang, and the day before President Obama’s meeting with him, which also included discussions involving Tibet and the surveillance confrontations.²⁰⁶ PRC-U.S. human rights dynamics reveal that the new Obama Administration initially emphasized bilateral cooperation amidst the financial crisis over PRC human rights reforms. However, a domestic backlash created concentrated pressures in early March, which correlated to the surveillance confrontations. Evidence supports a political reaction as a driver that may have shaped the initial 2009 encounters to signal dissatisfaction or shift focus away from this issue by redirecting political and media attention. However, this driver cannot be firmly linked to any specific incident, and the continuation of harassment through early 2009 PRC-U.S. human rights tensions suggests that this was not likely the primary instigator of these encounters, exposing the limitations of this assertion.

4. Political Linkage

Taiwan arms sales tensions correlated to the 2009 surveillance confrontations, supporting a political linkage as a fourth potential geopolitical driver that shaped the PRC’s behavior. Although there is a correlation between the resurfacing of Taiwan

²⁰³ White Paper: 50 Years of Democratic Reform in Tibet, Permanent Mission of the People’s Republic of China to the UN, accessed May 19, 2014, <http://www.china-un.org/eng/gdxw/t539939.htm>.

²⁰⁴ Robert Mackey, “The Dalai Lama’s ‘Hell on Earth’ Speech,” *The New York Times*, March 10, 2009, <http://thelede.blogs.nytimes.com/2009/03/10/the-dalai-lamas-hell-on-earth-speech/>.

²⁰⁵ House Resolution on Tibet (H.R. 226), Council on Foreign Relations, March 11, 2009, <http://www.cfr.org/human-rights/house-resolution-tibet-hr-226/p18759>.

²⁰⁶ “U.S. Talks Focus.”

tensions and the initial confrontations, there are several limitations to this assertion. Their perpetuation past the diplomatic exchanges relevant to Art's "fungibility of force," and a lack of evidence linking Taiwan arms sales dynamics to any particular encounter or its political leveraging, suggests that this factor was not a primary driver, but limited to shaping the encounters or their ensuing discussions.²⁰⁷ Kan states that on October 3, 2008, President Bush notified Congress that Taiwan arms sales would proceed; consequently, "the PLA suspended some military meetings and port visits, in a "continued politicization" of contacts...The PRC also suspended bilateral talks to cooperate on weapons non-proliferation."²⁰⁸ On February 27, 2009, shortly into the Obama presidency, PRC-U.S. military talks resumed; however, Taiwan arms sales remained precarious, as indicated by the PRC's co-chair of the talks, Qian Lihua's statements: "China-U.S. military relations remain in a difficult period. We expect the U.S. side to take concrete measures for the resumption and development of our military ties."²⁰⁹ Qian also stated: "The difficulties in the two countries' military relations have been caused by the U.S. side. The Taiwan issue involves China's sovereignty and territorial integrity, involves the feeling of the 1.3 billion Chinese people, and is the core interest and concern of the Chinese side. U.S. arms sales to Taiwan not only damage the Chinese side's core security interests, but also affect the peace and stability of the Taiwan Strait's situation."²¹⁰ On March 12, the same day as his meeting with President Obama, Foreign Minister Yang stated: "We will never waiver in our commitment to the one China principle and will never compromise our opposition to 'Taiwan independence,' 'two Chinas' or 'one China, one Taiwan'... We hope that the U.S. side will honor its commitments, prudently and properly handle Taiwan-related issues, and take concrete

²⁰⁷ Art, "The Fungibility of Force," 19.

²⁰⁸ Kan, "Taiwan: Major U.S. Arms," 44.

²⁰⁹ Dan Martin, "China Warns U.S. on Taiwan as Military Talks Resume," *AFP*, February 27, 2009, Open Source Center (CPP20090227968139). This article was published in Hong Kong through *AFP*, an independent French press agency.

²¹⁰ Xiong Zhengyan, "China-U.S. Military Relations Develop Amid Twists and Turns" *Xinhua Asia-Pacific Service*, March 1, 2009, Open Source Center, (CPP20090301138003). *Xinhua Asia-Pacific Service* is China's official news service for the Asia-Pacific region.

actions to support the peaceful development of cross-Strait relations.”²¹¹ This statement indicates a basis of correlative tension; however, there are no indications of political leveraging between these issues. The 2009 surveillance confrontations correlated to PRC-U.S. adversities over Taiwan, which resurfaced following resumed PRC-U.S. military talks in late February 2009. This factor may have influenced the encounters or their ensuing discussions during the PRC’s initial pattern of surveillance confrontations by shaping issues across domains. However, even though this driver correlates to the early March confrontations, it cannot be firmly linked to any encounter, there is a lack of evidence that political linkage occurred, and it was not likely relevant during the later incidents, exposing the limitations of this assertion.

C. A DETERRENT TO ADVERSITY: THE GREAT RECESSION (2009)

In contrast to several drivers of PRC-U.S. tensions, economic uncertainties surrounding the Great Recession were also present in early 2001, requiring cooperative PRC-U.S. efforts that support its deterrence of broader adversity. The 2009 surveillance confrontations occurred in this context, which likely mitigated adversities related to these encounters. Marc Labonte describes the Great Recession, which began in 2007, “deepened from the third quarter of 2008 to the first quarter of 2009, ...[and]... features the largest decline in output, consumption, and investment, and the largest increase in unemployment, of any post-war recession.”²¹² In response to this growing crisis, the first G-20 meeting was held in Washington, DC, on November 14 and 15, 2008, to “strengthening financial regulation, with agreement on a 47-point action plan to arrest deteriorating financial market conditions and improve financial regulation over the medium term.”²¹³ Bader states the new Obama administration’s highest foreign policy

²¹¹ “Chinese FM Warns U.S. on Taiwan,” *The China Post Online*, March 14, 2009, Open Source Center (CPP20090314968095) *The China Post Online* is an Internet newspaper in English, published in Taipei, Taiwan, which expresses pan-blue party viewpoints.

²¹² Marc Labonte, “*The 2007–2009 Recession: Similarities to and Differences from the Past*,” Congressional Research Service (Washington, DC: Library of Congress, 2001), summary, <http://www.fas.org/sgp/crs/misc/R40198.pdf>.

²¹³ 2008 Washington, The Group of 20, accessed February 7, 2014, https://www.g20.org/about_g20/past_summits/2008_washington.

objective was “to spur global economic recovery from the financial meltdown and deep global recession.”²¹⁴ Prior to the second G-20 meeting in London on April 2, 2009, the NPC convened from March 5 to 13, focusing upon “unison actions to combat downturn amid the global financial crisis,”²¹⁵ also revealing the primacy of this issue for the PRC. Additionally, the Dow Jones Industrial Average (Dow) hit a 12-year low on March 9, 2009, which was a point many considered to be the bottom of the Great Recession, exposing its heightened capacity to compel PRC-U.S. economic policy coordination.²¹⁶ Pressures for PRC-U.S. economic cooperation in the wake of the Great Recession correlated with the 2009 surveillance confrontations, supporting its deterrence of broader adversity.

Foreign Minister Yang’s March meetings were also influenced by a drive toward economic cooperation. According to the *China Daily*, Foreign Minister Yang’s early March visit to the U.S. was “to prepare the meeting between the heads of the two states and compare notes with U.S. officials on the proposals to be raised at the upcoming G20 meetings.”²¹⁷ Following Foreign Minister Yang’s agenda-setting meetings on March 11 and 12, he stated that the April 2 meeting would “chart the course for the further development of China-U.S. relations, ...[and that]...we can hardly find an area where China-U.S. cooperation is not needed.”²¹⁸ The second meeting of the G-20 convened in London on April 2, 2009, to coordinate “fiscal and monetary stimulus measures to avert the threat of global depression.”²¹⁹ Presidents Obama and Hu met for the first time just prior to this meeting, agreeing to “intensify coordination and cooperation on global and

²¹⁴ Bader, *Obama and China’s Rise*, 21.

²¹⁵ “China’s Top Legislature Ends.”

²¹⁶ “Tracking the Dow One Year After Rock Bottom,” *ABC News*, March 9, 2010, <http://abcnews.go.com/Business/year-ago-today-dow-hit-bottom-recession/story?id=10046578>.

²¹⁷ “China Offers U.S. Help To Tackle Financial Crisis,” *China Daily*, March 14, 2009, http://www.chinadaily.com.cn/china/2009-03/14/content_7578955.htm.

²¹⁸ *Ibid.*

²¹⁹ 2009 London, Group of 20, accessed February 7, 2014, https://www.g20.org/about_g20/past_summits/2009_london.

economic and financial issues.”²²⁰ On April 3, Foreign Minister Yang stated that the presidents:

Agreed to make joint efforts to build positive, cooperative, and comprehensive China-U.S. relations in the 21st century; to establish a China-U.S. strategic and economic dialogue mechanism; and to reach a consensus on further deepening mutually beneficial cooperation in a wide range of spheres. Obama accepted President Hu Jintao’s invitation and will visit China in the second half of the year. This meeting opened up a new era for the healthy and stable development of China-U.S. relations.²²¹

This statement highlights the April 2 bilateral meeting’s important on the spirit of PRC-U.S. relations under the Obama presidency. This meeting was coordinated during Foreign Minister Yang’s early March visit, which correlated to the surveillance confrontations. In light of these dynamics, the 2009 confrontations remained below the threshold to undermine an overall cooperative tone in PRC-U.S. relations, supporting the Great Recession’s deterrence of broader adversity across this period.

D. CONCLUSION

The development of PRC-U.S. maritime relations, the specifics of each incident, and several geopolitical factors, all defined the 2009 surveillance confrontations. Domestic pressures, issue elevation, political reaction, and political linkage were four potential drivers of the PRC’s behavior, while the Great Recession likely deterred broader adversity. Table 3 highlights several significant events in PRC-U.S. relations surrounding the 2009 confrontations. The development of PRC-U.S. maritime relations, all five confrontations, and the 2001 and 2009 geopolitical dimensions are contrasted in the following chapter to assess the PRC’s potential behavioral drivers across these factors.

²²⁰ “Key Sino-U.S. Dialogue Set for Summer,” *China Daily*, April 2, 2009, http://www.chinadaily.com.cn/china/g20/2009-04/02/content_7640544.htm.

²²¹ “Firm Up Confidence, Strengthen Cooperation, Promote Reform, and Jointly Overcome Current Difficulties,” *Xinhua Domestic Service*, April 3, 2009, Open Source Center, (CPP20090403354001).

Table 3. Chronology of Early 2009 PRC-U.S. Relations.²²²

Date:	Event Description:
Nov 15–20, 2008	First G-20 meeting held in response to global financial crisis.
Jan 20, 2009	President Obama Inaugurated.
Feb 17	Philippines House and Senate pass maritime claims resolution.
Feb 20–22	Secretary of State Clinton visits PRC, Feb. 21 speech creates domestic backlash.
Feb 25	U.S. State Department publishes adverse PRC human rights report.
Feb 27	PRC-U.S. military talks resume.
Mar 2	PRC Foreign Ministry spokesman Ma contests U.S. report on PRC human rights.
Mar 2	PRC publishes the White Paper: 50 Years of Democratic Reform in Tibet.
Mar 4	PRC announces 14.9% military budget increase.
Mar 4	USNS <i>Victorious</i> harassment commences.
Mar 5–13	Annual NPC meeting.
Mar 5	USNS <i>Impeccable</i> harassment commences.
Mar 7	PRC announces Foreign Minister Yang’s visit to the U.S.
Mar 8	USNS <i>Impeccable</i> harassment plateaus.
Mar 9–13	Minster Yang visits U.S., meets Sec. Clinton Mar 11 and Pres. Obama Mar 12.
Mar 9	Dow hits 12-year low marking height of Great Recession.
Mar 10	Philippine Baseline Law Approved by President Macapagal-Arroyo.
Mar 10	50th Anniversary of Tibetan uprising and Dali Lama comments.
Mar 11	H.Con.Res 226 passed supporting Tibetan plight.
Apr 2	G-20 meeting. President Obama and Hu’s first meeting, confrontations
Apr 8	PRC lodges protest with UN against the Philippines’ pending claim.
Apr 21	UNCLOS claim submitted by the Philippines.
Apr 23	PLAN 60-year anniversary. Admiral Roughead, CNO visits PRC.
May 1	Final PLAN harassment against USNS <i>Victorious</i>.
May 6	Malaysia and Vietnam submit Joint UNCLOS claim, PRC responds on May 7..
May 13	UNCLOS EEZ claims deadline.

²²² 2008 Washington; R.A. 9522; Bader, *Obama and China’s Rise*, 15–16; 2008 Human Rights Report: China; Martin, “China Warns U.S.”; Foreign Ministry Spokesperson Ma; White Paper: 50 Years; “China to Boost Military”; McVadon, “The Reckless,” 1–2; “China’s Top Legislature Ends”; Pedrozo, “Close Encounters,” 101; “Chinese FM to Visit”; “U.S. Talks Focus”; “Tracking the Dow”; Mackey, “The Dali Lama’s”; House Resolution on Tibet; Foreign Ministry Spokesperson Qin; Philippines; Admiral Gary Roughead; “Pentagon Wars over Chinese”; Joint Submission By Malaysia; Issues with Respect.

VIII. COMPARATIVE ANALYSIS OF SURVEILLANCE CONFRONTATIONS

A. INTRODUCTION

Surveillance confrontations on the PRC's maritime periphery were defined by the development of PRC-U.S. maritime relations, the specific circumstances of each incident, and several geopolitical factors. Potential drivers of the PRC's behavior are explored across these elements, suggesting that operational opportunism, domestic pressures, issue elevation, political reaction, and political linkage each draw on a range of supporting and conflicting evidence as instigators of the PRC's behavior. However, based upon this assessment, the surveillance confrontations were most likely driven by issue elevation and operational opportunism in early 2001 and 2009, while the 2002 incident was most likely limited to operational opportunism. The PRC's maritime forces were most likely given the charge to opportunistically challenge U.S. maritime surveillance operations across early 2001 and 2009, in an effort to politically elevate maritime sovereignty and surveillance issues during periods of enhanced political efficiency.

Drivers of the PRC's behavior from domestic pressures, political reactions, and political linkages were also present surrounding the 2001 and 2009 confrontations; however, they cannot be linked to the encounters with any degree of certainty. Additionally, both periods also contained a strong PRC-U.S. deterrent to adversity, namely, the PRC's WTO accession in 2001 and the Great Recession in 2009, which likely mitigated the adversities of their respective surveillance confrontations. These findings indicate that future vulnerability periods may appear, in which there is an increased probability of this dynamic resurfacing when U.S. surveillance norms are most susceptible to political challenge. Contrasting the drivers of the PRC's behavior across all five encounters supports this assessment.

B. COMPARATIVE DRIVER ANALYSIS

The five plausible drivers of surveillance confrontations assessed include: operational opportunism, domestic pressures, issue elevation, political reaction, and

political linkage. Supporting and conflicting evidence for each driver is presented to weigh its viability as a primary instigator of the PRC's behavior.

1. Operational Opportunism

The first potential explanation for the surveillance confrontations is that they resulted from local commanders' opportunistic initiatives. This view contains varying degrees of support across all five incidents. The early 2001 confrontations followed a recent PRC bolstering of its EEZ sovereignty claims in the late 1990s, the creation of the CMS in 1998, and an increase in U.S. surveillance flights in the second half of 2000.²²³ From this standpoint, the PRC's harassment of U.S. airborne surveillance assets from December 2000 until the EP-3 collision on April 1, 2001 appears to be a consequence of tensions from these intersecting dynamics, which resulted in greater numbers of PRC and U.S. units coming into contact within an increasingly contested domain. Additionally, PRC sources claimed that at the time of the 2001 *Bowditch* incident, the vessel was observing a PLA submarine exercise, indicating a specific operational objective underlying this case of harassment.²²⁴ Interestingly, the September 19, 2002 *Bowditch* incident occurred one month after Deputy Secretary of State Richard Armitage's visit to the PRC in August, which largely focused on "making preparations for the meeting between Presidents Bush and Jiang in Crawford scheduled for October 25 [2002];"²²⁵ however, there is a lack of public evidence that this encounter generated any political discussions or that it was significantly related to any other potential drivers. Therefore, it appears to have been a random occurrence that was divorced from overarching political objectives, also supporting an operational basis underlying the PRC's behavior. The 2009 *Victorious* and *Impeccable* incidents began nearly simultaneously, but continued sporadically over several weeks, supporting operational opportunism as a driver across a period in which local commanders likely challenged U.S. surveillance assets as the

²²³ "Provisions on the Administration"; "Law of the People's"; Cole, *The Great Wall*, 81; Ricks, "Anger over Flights."

²²⁴ Ren, "U.S. Military Planes."

²²⁵ Richard L. Armitage, Press Conference, U.S. Department of State, August 26, 2002, <http://2001-2009.state.gov/s/d/former/armitage/remarks/2002/13180.htm>.

opportunity appeared.²²⁶ These trends bolster operational opportunism as a contributing element across all surveillance confrontations.

Looking at the surveillance confrontations more broadly, conflicting evidence emerges, requiring consideration of additional drivers of the PRC's behavior. First, a lack of high profile harassment following the 2002 *Bowditch* incident through the remainder of the Bush Presidency reveals a large gap in these activities. This period likely contained many other similar harassment opportunities, exemplified by a PRC Ministry of Foreign Affairs official's September 2006 concerns regarding the activities of four U.S. surveillance vessels, which were not accompanied by similar PRC behavior.²²⁷ Additional evidence supporting political motives for the PRC's behavior is found in the characteristics of the 2001 and 2009 incidents.

The disposition of the PRC assets involved, particularly during the 2009 incidents, suggests coordinated encounters. While the 2001 confrontations were executed solely by PLAN assets, the 2002 and 2009 incidents integrated fishery and oceanographic vessels.”²²⁸ Goldstein states that China's Fisheries Law Enforcement Command (FLEC) falls under the Ministry of Agriculture and the CMS falls under the State Oceanographic Administration (SOA), which reports directly to the State Council.²²⁹ Cole states that the CMS is “the most military coast guard organization...is responsible for coordination with the PLAN...[and]...is closely associated with the PLAN.”²³⁰ Cole also relays that the vessels involved in the incidents “likely were CMS vessels operating under PLAN direction.”²³¹ Goldstein outlines the purpose of using coast guard vessels for harassment activities: “A Chinese military analyst wrote in June 2008 that coast guard involvement

²²⁶ McVadon, “The Reckless,” 1–2.

²²⁷ Yu, “Jurisprudential Analysis,” 41.

²²⁸ Pedrozo, “Close Encounters, 101; Xu, “Chinese Fishing Boat”; “RAW Data: Pentagon”; Starr, “Chinese Boats Harassed.”

²²⁹ Lyle Goldstein, *Five Dragons Stirring Up the Sea: Challenges and Opportunities in China's Improving Maritime Enforcement Capabilities* (Newport: Naval War College Press, 2010), 15, 18, 20. http://www.usnwc.edu/Research---Gaming/China-Maritime-Studies-Institute/Publications/documents/CMSI_No5_web1.pdf.

²³⁰ Cole, *The Great Wall*, 81.

²³¹ Ibid.

would not complicate crises in the same way that direct navy involvement might.”²³² This reasoning supports the greater inclusion of CMS assets in these confrontations, beginning with the 2002 *Bowditch* incident, which was the first encounter following the political consequences of the EP-3 collision.²³³ The varied dispositions of the PRC’s assets indicate bureaucratic coordination amongst multiple agencies, demanding consideration of drivers originating higher in the PRC’s governmental hierarchy.

The geographic and temporal similarities of the 2001 and 2009 confrontations also demand assessment of additional instigators of the PRC’s behavior. The 2001 incidents occurred one week apart, with the USNS *Bowditch* harassment transpiring in the East China Sea on March 23, and the EP-3 and F-8 accidentally colliding over South China Sea on April 1.²³⁴ Similarly, the 2009 incidents began one day apart, with harassment commencing upon USNS *Victorious* in the East China Sea, and USNS *Impeccable* in the South China Sea, on March 4 and 5, 2009, respectively.²³⁵ Figure 7 displays this correlation, which took place across the PLAN’s fleet and the CMS’s regional boundaries, supporting synchronization.

²³² Goldstein, *Five Dragons Stirring*, 32.

²³³ Xu, “Chinese fishing Boat.”

²³⁴ Pedrozo, “Close Encounters,” 101; Kan, “China-U.S. Aircraft Collision,” 1.

²³⁵ Pedrozo, “Close Encounters,” 101; McVadon, “The Reckless,” 1–2.

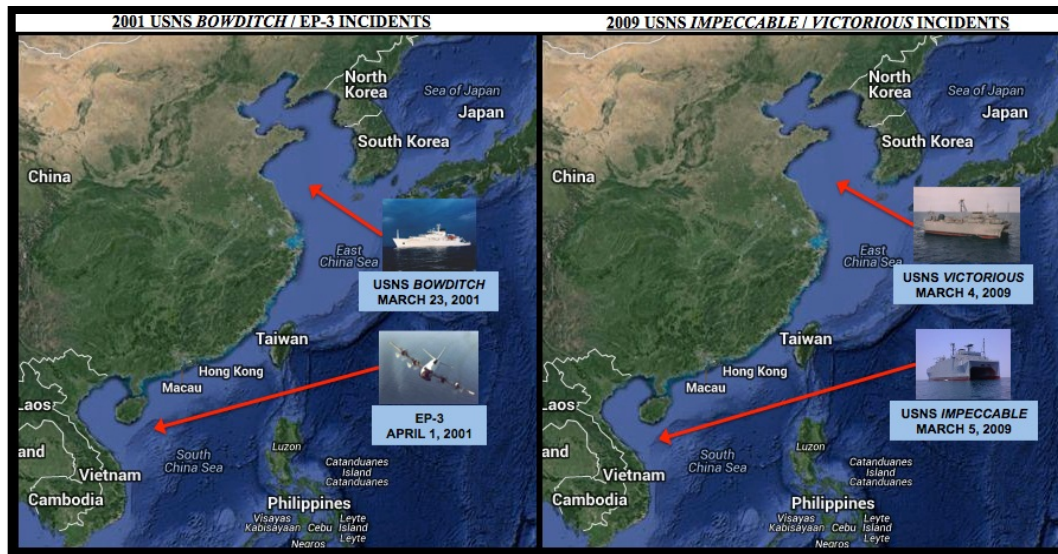


Figure 7. Map of 2001 and 2009 Surveillance Confrontations.²³⁶

Based upon the PLAN's structure, coordination was likely initiated from at least the Headquarters Department in Beijing, if not higher in the PRC's governmental hierarchy. Cole indicates that operational command of the PLAN passes through the Headquarters Department, which contains an Operations Office that "oversees the three operational fleets: the North Sea Fleet, the East Sea Fleet, and the South Sea Fleet."²³⁷ Cole also highlights that the CMS has "regional headquarters in Qingdao (covering the Bo and Yellow seas), Shanghai (covering the East China Sea), and Guangzhou, (covering the South China Sea)."²³⁸ The 2001 incidents occurred one week apart, with the EP-3 accident transpiring after several months of hazardous intercepts, weakening this logic in this case.²³⁹ However, since the dangerous airborne intercepts persisted for months after a U.S. diplomatic protest in December 2000, this suggests there was at least implicit approval for these continued activities from central PRC authorities, both before and after the *Bowditch* incident on March 23.²⁴⁰ The 2009 incidents commenced one day apart

²³⁶ The author created this map from a similar map in Redden, "Managing Sino-U.S.," 6.

²³⁷ Cole, *The Great Wall*, 70.

²³⁸ Ibid., 81.

²³⁹ Pedrozo, "Close Encounters," 101; Kan, "China-U.S. Aircraft Collision," 1.

²⁴⁰ Pedrozo, "Close Encounters," 101; Kan, "China-U.S. Aircraft Collision," 1.

across fleet and CMS regional boundaries, also suggesting coordination and planning from Beijing.²⁴¹ The large gap in surveillance confrontations from 2002 to 2009, coupled with its sudden, apparently coordinated reemergence, warrants investigation of additional top-down drivers of the PRC's behavior.

2. Domestic Pressure

A second potential explanation for surveillance confrontations was that they resulted from domestic political pressures, which instigated tensions to promote the defense of maritime sovereignty for increased PLAN budgets and modernization resources. In 2001 and 2009, the surveillance confrontations correlated to the yearly NPC sessions and PLA budget announcements. In 2001, the PRC announced an 18% defense budget increase at the NPC on March 6, the same day as the first of two consecutive airborne incidents.²⁴² In 2009, the PRC announced a 14.9% defense budget increase on March 4, the same day harassment commenced upon *Victorious* and the day before the start of the NPC session and the *Impeccable* incident.²⁴³ These examples align with Shambaugh's assertion regarding the PRC's defense budget: "the total figure announced is both the outcome of a year-long bidding and negotiating process and the catalyst for the next budget cycle."²⁴⁴ This dynamic may indicate that March is a month in which the enhancement of threats to the PRC's security and sovereignty could not only be used to justify the recently published budget, but also provide a degree of political clout for the next annual "bidding and negotiating process."²⁴⁵ The PLAN's 60-year anniversary was a second domestic driver present towards the end of the 2009 incidents that further supports this assertion.²⁴⁶ These trends suggest domestic pressures may have been an element of the March of 2001 and 2009 confrontations.

²⁴¹ Ricks, "Anger over Flights."

²⁴² "The Uneasy Triangle." Ren, "U.S. Military Planes."

²⁴³ "China to Boost." Pedrozo, "Close Encounters," 101; McVadon, "The Reckless," 1-2; Guo, "NPC Session Fruitful."

²⁴⁴ Shambaugh, *Modernizing China's Military*, 205.

²⁴⁵ Ibid.

²⁴⁶ "Chinese President Hu."

Although evidence indicates the presence of domestic instigators in March of 2001 and 2009, this explanation lacks the continuity and substance to be the primary driver of the PRC's behavior. First, several NPC's and substantial PRC defense budget increases have transpired in the month of March before, between, and following 2001 and 2009, without accompanying surveillance confrontations. Second, the hazardous airborne intercepts started in December 2000 and peaked weeks after the March NPC, indicating a misalignment of this dynamic. The September 2002 *Bowditch* incident is also completely out of phase with its annual PRC defense budget cycle. Finally, the early 2009 confrontations fit this dynamic, but their perpetuation through both the March NPC and the 60-year PLAN anniversary in April is also problematic for this claim.²⁴⁷ Conflicting evidence suggests that domestic pressures were not the primary driver the PRC's behavior, but this element may have been integrated into the timings or hype surrounding specific 2001 and 2009 incidents.

3. Issue Elevation

A third potential explanation for the surveillance confrontations was that they were strategically timed to elevate maritime sovereignty and surveillance issues to politically challenge this norm during the early 2001 and 2009 presidencies, or leading up to a 2009 UNCLOS claims deadline. The first view is the most substantiated geopolitical explanation of this study, in which U.S. surveillance operations were challenged during specific periods, when surveillance confrontations possess enhanced political efficiency. According to a 2001 *Washington Post* article, the U.S. increased its reconnaissance flights in the second half of 2000, to which the PRC responded with additional intercepts; however, starting in December 2000, these intercepts became hazardous.²⁴⁸ The intensification of dangerous intercepts in December 2000 was on top of an established pattern of airborne encounters that stemmed from a convergence of PRC-U.S. pressures and disagreements in the maritime domain. This acceleration coincided with President Bush's confirmed victory in December; confrontations further accelerated during the first

²⁴⁷ "China To Boost"; "Chinese President Hu."

²⁴⁸ Ricks, "Anger over Flights."

surface encounter involving USNS *Bowditch* and through continued hazardous intercepts into early April 2001, displaying parallel tensions between surveillance confrontations and broader PRC-U.S. political pressures.²⁴⁹ These parallel pressures in March 2001 are exemplified by the previous assessment of PRC-U.S. human rights and Taiwan arms sales tensions during this period. This pattern suggests that this issue followed suit with other bilateral political dynamics, supporting broad issue elevation across the early Bush Presidency as an instigator of the PRC's behavior.

In 2009, the March 4, 5, 7, and 8 *Victorious* and *Impeccable* incidents occurred just days prior to Foreign Minister Yang's previously arranged meetings with top U.S. leaders, which sought to "to prepare the meeting between the heads of the two states and compare notes with U.S. officials on the proposals to be raised at the upcoming G20 meetings,"²⁵⁰ and to "exchange views on the growth of Sino-U.S. relations in the new phase and regional and global issues of common concern."²⁵¹ PRC media sources indicated that the March 12 meeting between President Obama and Foreign Minister Yang "tried to focus on tackling a deepening economic crisis and defuse tensions over a confrontation at sea and Tibet,"²⁵² demonstrating the elevation of EEZ surveillance issues into discussions containing primary bilateral concerns. Issues related to the confrontations were also discussed during President Obama and Hu's first meeting on April 2 and Admiral Roughead's late April visit to the PRC, displaying political vulnerabilities that mirrored surveillance confrontations across this several week period.²⁵³ This evidence suggests that the 2001 and 2009 confrontations resulted from issue elevation, in which the advancement of maritime surveillance and sovereignty disputes echoed broader political adversities across two periods, in which challenges to this norm possessed enhanced political efficiency. Under this claim, the 2001 acceleration of airborne confrontations was transcribed onto a previous pattern of less

²⁴⁹ Ibid.; Pedrozo, "Close Encounters," 101.

²⁵⁰ "China Offers U.S. Help.

²⁵¹ Pedrozo, "Close Encounters," 101; McVadon, "The Reckless," 1-2; "Chinese FM to Visit."

²⁵² "U.S. Talks Focus."

²⁵³ Foreign Ministry Spokesperson Qin; Admiral Gary Roughead"; "Pentagon Warns Over Chinese.."

contentious airborne intercepts, while the 2009 confrontational pattern commenced at an ideal time to elevate this issue into Foreign Minister Yang's early March meetings at the start of a period of political vulnerability.

Although evidence suggests issue elevation was likely a primary driver of the PRC's behavior, several aspects discredit the notion that every encounter was specifically designed to interject this issue into particular meetings, with the exception of the initial 2009 confrontations. First, the 2001 and 2009 incidents perpetuated past the high-level negotiation towards which they would have had the most impact. The March 23, 2001 *Bowditch* incident occurred on the last day of Vice Premier Qian's meetings, during which there is no public record of this issue's discussion.²⁵⁴ Hazardous PLAN airborne intercepts also continued after Vice Premier Qian's visit in 2001, indicating it was not specifically aimed at this juncture.²⁵⁵ Second, the September 2002 *Bowditch* incident was likely an isolated encounter, lacking any accompanying records of subsequent diplomacy.²⁵⁶ Lastly, while the initial early 2009 maritime incidents were well-timed, the later encounters continued until May 1, which was after the conclusion of Foreign Minister Yang's meetings, President Obama and Hu's first meeting at the G-20 on April 2, and Admiral Roughead's April visit to the PRC.²⁵⁷ These discrepancies do not undermine issue elevation as a primary driver of surveillance confrontations, but they suggest that the 2001 and 2009 incidents were likely executed as broad attempts to elevate maritime surveillance and sovereignty issues across two periods. In 2009, however, the start of this period appears strategically timed to align with a specific venue well suited for this purpose.

A second, less-supportable assertion claims that the surveillance confrontations were driven by the PRC's desire to elevate its EEZ claims leading up to the 2009

²⁵⁴ Pedrozo, "Close Encounters," 101; Yang, "Expanding Consensus."

²⁵⁵ Kan, "China-U.S. Aircraft Collision," 1; Yang, "Expanding Consensus."

²⁵⁶ Kan, "U.S.-China Military," 62.

²⁵⁷ McVadon, "The Reckless," 1–2; U.S. Talks Focus"; Key Sino-U.S. Dialogue"; Admiral Gary Roughead."

UNCLOS deadline.²⁵⁸ Although there were many parallels between these dynamics in early 2009, this issue was not likely a primary driver of the PRC's behavior since the U.S. was not a South China Sea claimant nation and the confrontations do not appear to have had any direct impact on the concurrent UNCLOS dynamics. This suggests that the UNCLOS deadline was likely limited to reinforcing the PRC's confrontational behavior across this broad period of encounters.

4. Political Reaction

A fourth potential explanation for the surveillance confrontations was that they were adverse reactions to unfavorable U.S. political initiatives, intended to signal dissatisfaction or shift political focus through the redirection of political and media attention. This driver was likely limited to shaping the timing or hype related to specific encounters and was not likely a primary driver of the broader confrontational patterns in 2001 and 2009. In March 2001, several U.S. legislative actions towards PRC human rights conditions occurred just prior to the confrontations. Following a Senate human rights resolution on March 20, and a Congressional resolution to deny the Beijing Olympic bid on March 21, a PRC spokesman's responded with negative statements on March 23, the same day as the *Bowditch* incident.²⁵⁹ Following the 2001 *Bowditch* incident, a UNCHR resolution was forwarded by the U.S. on March 26, just before the most hazardous airborne intercept to date that led to the accidental EP-3 and F-8 collision on April 1.²⁶⁰ In 2009, tensions from U.S. pressures for PRC human rights reforms grew following Secretary Clinton's February 21 statements, further increased after the release of an adverse PRC human rights report on February 25, and strengthened towards an anticipated Tibetan anniversary on March 10.²⁶¹ The March 2009 confrontations occurred just prior to a culmination of several pressures towards this focal point. These examples support surveillance confrontations as adverse PRC responses to these

²⁵⁸ Issues with Respect.

²⁵⁹ Glaser, "U.S.-China Relations"; H.Con.Res.73–107th Congress; "China FM Spokesman Condemns."

²⁶⁰ Lu, "Chronology of China-U.S.;" Kan, "China-U.S. Aircraft," 1.

²⁶¹ Bader, *Obama and China's Rise*, 15–16; 2008 Human Rights Report: China; White Paper: 50 Years.

initiatives, serving as a signal of dissatisfaction or a means of shifting focus away from this contentious issue through the redirection of political and media attention.

Several aspects discredit a political reaction as the primary driver of the PRC's behavior. While the timing of these incidents conveniently lines up with these two sets of human rights initiatives, other congressional resolutions, adverse human rights reports, and notable anniversaries did not generate similar responses. Likewise, the 2002 *Bowditch* incident appears to be disconnected from any similar dynamics. Second, this driver cannot be firmly linked to the origins of any incidents during either period. Finally, a trend of hazardous airborne intercepts was established before the March 2001 initiatives, while the 2009 confrontations continued for weeks after the early March human rights pressures, indicating several flaws discrediting a political reaction as the primary driver of the PRC's behavior; therefore, this driver was likely limited to shaping the timing or hype related to specific encounters.²⁶²

5. Political Linkage

A fifth potential explanation for the surveillance confrontations was that they were initiatives to increase the PRC's overall bargaining position towards separate issues through a political linkage strategy, applying the "fungibility of force" to shape issues across policy domains.²⁶³ This factor may have influenced the encounters or their aftermath within the broader 2001 and 2009 patterns of surveillance confrontation, but it was not likely a primary driver of any specific incident. In early 2001, under a looming annual U.S.-Taiwan arms sales talk in April, Admiral Blair, commander of PACOM, visited the PRC to discuss this issue on March 14.²⁶⁴ Vice Premier Qian discussed the issue again during meetings with top U.S. leaders from March 21 to 23, which ended on the same day as the 2001 *Bowditch* incident.²⁶⁵ President Jiang made statements on March 25, indicating Taiwan tensions continued through these meetings and the March

²⁶² Ricks, "Anger over Flights"; McVadon, "The Reckless," 1–2.

²⁶³ Art, "The Fungibility of Force," 19.

²⁶⁴ Kan, "U.S.-China Military Contacts," 53.

²⁶⁵ Vice Premier Qian Qichen Holds.

23 *Bowditch* incident, exposing a continued motive for creating additional fungible political pressure prior to the hazardous airborne intercept that led to the accidental EP-3 collision.²⁶⁶ In 2009, Foreign Minister Yang met with top U.S. leaders on March 11 and 12 to set the agenda for the first meeting between the presidents in April.²⁶⁷ Military talks had recently resumed just prior to this meeting, which were suspended by the PRC in late 2008 due to Taiwan arms sales, raising this issue's importance going into this important diplomatic juncture.²⁶⁸ Maritime surveillance and sovereignty were discussed alongside this issue, opening the possibility for intersecting dialogues, under which the "fungibility of force" may have crossed policy domains.²⁶⁹ These dynamics support political linkage as a driver that may have shaped the 2001 and 2009 confrontations.

Several aspects discredit a political linkage strategy as the primary driver of the PRC's behavior. The first weakness of this argument is that diplomatic exchanges and Taiwan tensions are a recurring process in PRC-U.S. relations, and this strategy has not appeared in conjunction with other meetings. A second flaw of this argument is that manufacturing tensions is a risky endeavor that can undermine cooperation on major issues, as was nearly the case following the EP-3 incident and the PRC's WTO accession process.²⁷⁰ A third weakness of this argument is that there is no way to prove that this issue was leveraged upon other issues during diplomatic discussions, or even that the opposite consequence did not occur, in which the PRC's harassment activities were the target of U.S. political leveraging. Finally, the December 2000 origins of hazardous airborne intercepts, the September 2002 *Bowditch* incident, and the May 2009 *Victorious* incident appear unlinked to any venues for applying political leverage, further diminishing the strength of this assertion.²⁷¹ These flaws discredit a political linkage strategy as the primary driver of the PRC's behavior; however, this factor may have

²⁶⁶ Wu, "President Jiang Zemin Talks."

²⁶⁷ "Secretary Clinton's Press."

²⁶⁸ Kan, "Taiwan: Major U.S. Arms," 44; Martin, "China Warns U.S."

²⁶⁹ "U.S. Talks Focus"; Art, "The Fungibility of Force," 19.

²⁷⁰ Kan, "China-U.S. Aircraft Collision," summary.

²⁷¹ Ricks, "Anger over Flights"; Kan, "U.S.-China Military, 62"; McVadon, "The Reckless," 1-2.

shaped the encounters or their aftermath within the context of the broader 2001 and 2009 confrontational patterns.

C. CONCLUSION

Operational opportunism, domestic pressures, issue elevation, political reaction, and political linkage all contain supporting and conflicting evidence as drivers of the PRC's behavior across the five surveillance confrontations. It is likely that each incident was uniquely influenced by these dynamics in a manner only known to PRC authorities; however, the most probable drivers are generalizable for each encounter. The 2001 incidents were likely driven by issue elevation leading into the new Bush presidency, following the convergence of PRC-U.S. pressures in the maritime domain in the late 1990s and early 2000s. The increasingly hazardous airborne encounters from December 2000 to April 2001 suggests that the PRC intensified its established trend of airborne intercepts on its maritime periphery, and expanded this behavior through an initial surface confrontation involving *Bowditch* in March, to elevate this issue across a period in which it was perceived to be vulnerable to political challenge.²⁷² The 2002 *Bowditch* incident displayed the sharing of this role with the CMS, and was likely limited to operational opportunism, since none of the other dynamics appear present. The 2009 incidents were most likely the result of another attempt at issue elevation, in which the PRC's maritime forces were once again given the charge to opportunistically challenge U.S. maritime surveillance assets during a second period perceived to be vulnerable to political challenge; this wave of confrontations was likely specifically initiated just prior to Foreign Minister Yang's meetings with U.S. leaders in early March 2009, which set the stage for President Obama and Hu's first meeting in early April. EEZ surveillance operations have been a standing dispute between the U.S. and PRC, but the continuous challenge of these activities would likely have been detrimental to bilateral relations; therefore, it is most likely that U.S. surveillance operations are generally contested during specific periods when surveillance confrontations possess enhanced political efficiency.

²⁷² Ricks, "Anger over Flights"; Pedrozo, "Close Encounters," 101.

The surrounding geopolitical conditions also shaped the surveillance confrontations, but these were likely of a secondary nature. First, both periods contained deterrents to broader adversity, namely, the PRC's WTO accession in 2001 and demands for PRC-U.S. economic cooperation in the face of the Great Recession in 2009. These dynamics may have mitigated political instability in PRC-U.S. relations; therefore, if broad surveillance confrontation initiatives reappear outside of similar deterrents in the future, there will be a greater chance of damage to bilateral relations or political escalation. Domestic pressures, political reactions, or political linkages may have also shaped the encounters; however, these factors likely had a limited role, and it is unlikely that they were the primary drivers of the PRC's behavior.

Another important element of these confrontations is that the 2001 and 2009 encounters coincided with two new presidencies, which likely supported a PRC perception that maritime surveillance was vulnerable to political challenge; however, it was most likely this perception of vulnerability and a resulting calculation of enhanced political efficiency, not the presidential transitions themselves that led to these initiatives. On this basis, future periods of political efficiency in PRC-U.S. relations, during which the PRC perceives U.S. maritime surveillance norms to be the most susceptible to political challenge, are defined as *vulnerability periods*. The remainder of this work assesses the future of PRC-U.S. surveillance confrontations and provides viable responses towards this potentially recurring dynamic.

IX. RECENT PRC-U.S. MARITIME DEVELOPMENTS

A. INTRODUCTION

The 2001 and 2009 confrontations were largely influenced by the development of PRC-U.S. maritime relations, the specific circumstances of each incident, and the surrounding geopolitical conditions. The likelihood of future confrontations will be significantly influenced by the convergence of these three factors; however, the development of PRC-U.S. maritime relations is the only influence that can be monitored for long-term trends. Five major trends in PRC-U.S. maritime relations following the 2009 confrontations are assessed to project this future dynamic.

B. FIVE RECENT TRENDS IN PRC-U.S. MARITIME RELATIONS

Five major trends in PRC-U.S. maritime relations include: the U.S. strategic “rebalance” to Asia, enduring PRC peripheral maritime disputes, greater PRC institutional integration of its maritime forces, a growing projection of the PRC’s maritime forces outside of Asia, and advancing PRC-U.S. military to military relations. These trends will be explored for their impact on the PRC’s future behavior in the maritime domain, to include its propensity to instigate surveillance confrontations.

1. U.S. Strategic Rebalance

The first recent trend is the U.S. “pivot” or “rebalance” to the Asia-Pacific region, which currently has an unclear impact on future of surveillance confrontations. On November 17, 2011, when speaking to the Australian Parliament, President Obama stated that following a decade of two costly wars, the U.S. is “turning our attention to the vast potential of the Asia Pacific region.”²⁷³ In January 2012, the Defense Strategic Guidance stated: “we will of necessity rebalance toward the Asia-Pacific region,”²⁷⁴ and “the

²⁷³ Remarks by President Obama to the Australian Parliament, The White House, last modified November 17, 2011, <http://www.whitehouse.gov/the-press-office/2011/11/17/remarks-president-obama-australian-parliament>.

²⁷⁴ “Sustaining U.S. Global Leadership: Priorities for 21st Century Defense,” The Department of Defense, January, 2011, 2. http://www.defense.gov/news/defense_strategic_guidance.pdf.

maintenance of peace, stability, the free flow of commerce, and of U.S. influence in this dynamic region will depend in part on an underlying balance of military capability and presence.”²⁷⁵ According to an early 2012 Open Source Center analysis, “Chinese officials, who have spoken on the new U.S. strategy since President Obama’s announcement, have stressed China’s interest in keeping ties on an even keel but have also signaled concern that the U.S. focus on East Asia could harm Chinese interests.”²⁷⁶ The “2013 PRC White Paper on National Defense” portrayed a negative PRC strategic view of the rebalance: “Some country [namely, the U.S.] has strengthened its Asia-Pacific military alliances, expanded its military presence in the region, and frequently makes the situation there tenser.”²⁷⁷ Conversely, Swaine discusses the muted responses of the PRC’s top leadership towards this dynamic, stating: “authoritative Chinese civilian and military commentary on those elements of the Pacific pivot that relate to U.S. military strategy and defense concepts has been both very rare and restrained.”²⁷⁸ The U.S. pivot to the Asia-Pacific region may enhance the likelihood for encounters as more forces from both nations operate in close proximity, but the PRC’s divergent interpretations and top leaderships’ ambiguity towards the rebalance makes its influence on surveillance confrontations unclear.

2. PRC Peripheral Maritime Tensions

The second recent trend is enduring confrontations on the PRC’s maritime periphery involving both U.S. and neighboring nations’ assets, enhancing the likelihood of future surveillance confrontations. Three incidents between PRC and U.S. vessels have occurred since the 2009 incidents, revealing enduring friction between PRC forces and U.S. operations in the Western Pacific. According to *CNN*, on June 11, 2009, a PRC submarine inadvertently struck the towed array of the USS *John McCain* (DDG-56); this

²⁷⁵ Ibid.

²⁷⁶ “OSC Analysis: PRC Officials, Media Signal Concern over New U.S. Defense Strategy,” January 9, 2012, Open Source Center (CPF20120110358001).

²⁷⁷ Fu Peng, “The Diversified Employment of China’s Armed Forces,” *Xinhua*, April 16, 2014, http://news.xinhuanet.com/english/china/2013-04/16/c_132312681.htm.

²⁷⁸ Michael D. Swaine, “Chinese Leadership and Elite Responses to the U.S. Pacific Pivot,” *China Leadership Monitor* 38 (2012): 7. <http://www.hoover.org/publications/china-leadership-monitor/article/124546>.

incident was not considered intentional harassment, but it exposes the greater danger associated with more PRC and U.S. forces operating in close proximity.²⁷⁹ The *Washington Times* reported a second incident on June 21, 2013, in which a PRC security ship contacted USNS *Impeccable*, declaring it was operating “illegally,” and was not a “noncombatant” ship.²⁸⁰ O’Rourke highlights a third incident “on December 5, 2013, in which a Chinese navy ship put itself in the path of the U.S. Navy cruiser *Cowpens* (CG-63) as it was operating 30 or more miles from China’s aircraft carrier *Liaoning* (16), forcing the *Cowpens* to change course to avoid a collision.”²⁸¹ The second and third incidents indicate continued PRC encounters with U.S. assets, increasing the likelihood of future surveillance confrontations.

Since the 2009 surveillance confrontations, the PRC has also become increasingly confrontational towards its maritime neighbors, particularly towards the territorial claims of Japan, the Philippines, and Vietnam. Oriana Maestro highlights 10 encounters from early 2011 into mid-2012, including: “Chinese patrol boats attempting to ram a Philippine vessel, Chinese vessels cutting or disabling the cables of Vietnamese survey ships, and China detaining 21 Vietnamese fishermen for seven weeks.”²⁸² Ronald O’Rourke also states: “a confrontation in 2012 between Chinese and Philippine ships at Scarborough Shoal that resulted in China gaining de facto control over access to the shoal.”²⁸³ Across this same period, the PRC and Japan have escalated claims over the Diaoyu or Senkaku Islands, further fueling regional tensions. Thayer traces several events in this dynamic, including: a Japanese detention of a Chinese fishing boat captain in September 2010; a Japanese initiative under Shintaro Ishihara to purchase the Senkaku Islands in April 2012; and a “full-blown diplomatic crisis in August and

²⁷⁹ Barbara Starr, “Sub Collides with Sonar Array Towed by U.S. Navy Ship,” *CNN*, June 12, 2009, <http://www.cnn.com/2009/U.S./06/12/china.submarine/>.

²⁸⁰ Bill Gertz, “Inside the Ring: New Naval Harassment in Asia,” *Washington Times*, July 17, 2013, <http://www.washingtontimes.com/news/2013/jul/17/inside-the-ring-new-naval-harassment-in-asia/?page=all>.

²⁸¹ O’Rourke, “Maritime Territorial and Exclusive,” 5.

²⁸² Oriana S. Mastro, “The Sansha Garrison: China’s Deliberate Escalation in the South China Sea,” *East and South China Seas Bulletin* 5, (September, 2012). http://dc-9823-983315321.us-east-1.elb.amazonaws.com/sites/default/files/publications-pdf/CNAS_ESCA_bulletin5.pdf.

²⁸³ O’Rourke, “Maritime Territorial and Exclusive,” 12.

September...comprised of the intervention of nationalist citizens from claimant countries [and] 20 Chinese patrol vessels entered [Japan's] contiguous zone and/or territorial waters from Sept. 18 to 24, [2012].”²⁸⁴ On November 23, 2013 the PRC's Ministry of National Defense also announced an East China Sea Air Defense Identification Zone (ADIZ), which “covers the disputed Senkaku/Diaoyu Islets claimed by China, Japan, and Taiwan.”²⁸⁵ The same day as this announcement, U.S. Secretary of Defense Chuck Hagel released a statement that: “We remain steadfast in our commitments to our allies and partners. The United States reaffirms its longstanding policy that Article V of the U.S.-Japan Mutual Defense Treaty applies to the Senkaku Islands.”²⁸⁶ The PRC's 2013 White Paper states: “On the issues concerning China's territorial sovereignty and maritime rights and interests, some neighboring countries are taking actions that complicate or exacerbate the situation, and Japan is making trouble over the issue of the Diaoyu Islands.”²⁸⁷ These examples highlight enduring maritime tensions between the PRC and its neighbors, demonstrating its continued use of force in this domain, increasing the likelihood of future surveillance confrontations.

3. PRC Institutional Integration of Its Maritime Forces

The third recent trend is a greater institutional integration across the PRC's maritime forces. The PRC consolidated control over most of its maritime law enforcement assets in 2013, indicating its greater capacity to coordinate surveillance confrontations under the SOA and the Ministry of Public Security (MPS). This integration is likely to increase the PRC's effectiveness during future encounters. Kan states:

²⁸⁴ Carlyle A. Thayer, “The Senkaku Islands Dispute: Risk to U.S. Rebalancing in the Asia-Pacific?” *USNI News*, February 5, 2013, 2–4. <http://news.usni.org/2012/10/16/senkaku-islands-dispute-risk-us-rebalancing-asia-pacific>.

²⁸⁵ Nicholas Szechenyi et al., “China's Air Defense Identification Zone: Impact on Regional Security,” Center For Strategic and International Studies, November 26, 2013, <https://csis.org/publication/chinas-air-defense-identification-zone-impact-regional-security>.

²⁸⁶ Chuck Hagel, “Statement by Secretary of Defense Chuck Hagel on the East China Sea Air Defense Identification Zone,” U.S. Department of Defense, November 23, 2013, <http://www.defense.gov/releases/release.aspx?releaseid=16392>.

²⁸⁷ Fu, “The Diversified Employment.”

On March 10, [2013,] the PRC announced that the maritime law enforcement forces (other than those under the Ministry of Transportation) would be reorganized as a new Coast Guard under the administration of the SOA and the direction of the MPS. A coordinating body, the State Maritime Committee, would be set up in the reorganization of CMS, [People's Armed Police] PAP, FLEC, and Customs forces into a Coast Guard. These developments appeared linked to the reported increased coordination since 2012 by top leader Xi Jinping, who reportedly has headed a Leading Small Group on Maritime Security.²⁸⁸

These efforts indicate a greater PRC capacity to execute control over the its EEZ, which is likely to increase its effectiveness at challenging operations on its maritime periphery, to include the harassment of U.S. surveillance activities.

4. PRC Projection of Maritime Forces Outside of Asia

The fourth recent trend is an increased projection of PRC maritime forces outside of Asia, indicating the potential for confrontation or cooperation in distant domains, either of which is likely to have parallel influences upon future surveillance confrontations. The Department of Defense (DOD) report: "Military and Security Developments Involving the People's Republic of China 2013," (2013 CMSD) highlights that these endeavors include Humanitarian Assistance and Disaster Relief (HADR) missions in East Asia and the Caribbean, and a "Gulf of Aden counterpiracy deployment that began in December 2008."²⁸⁹ These initiatives provide potential venues for PRC-U.S. maritime cooperation, reducing the likelihood of future surveillance confrontations.

A second attribute of this trend is the initiation of surveillance operations in the U.S.'s EEZ by the PRC, similar in disposition to those it contests. The 2013 CMSD indicated that PLA surveillance vessels have been sighted operating around Guam, as well as Hawaii during the Rim of the Pacific Exercise (RIMPAC) in 2012:

PLA Navy has begun to conduct military activities within the Exclusive Economic Zones (EEZs) of other nations, without the permission of those coastal states. Of note, the United States has observed over the past year

²⁸⁸ Kan, "U.S.-China Military," 28.

²⁸⁹ "Annual Report to Congress: Military and Security Developments Involving the People's Republic of China 2013," Office of the Secretary of Defense, 2013, 29.
http://www.defense.gov/pubs/2013_china_report_final.pdf.

several instances of Chinese naval activities in the EEZ around Guam and Hawaii. One of those instances was during the execution of the annual Rim of the Pacific (RIMPAC) exercise in July/August 2012. While the United States considers the PLA Navy activities in its EEZ to be lawful, the activity undercuts China's decades-old position that similar foreign military activities in China's EEZ are unlawful.²⁹⁰

While these activities may suggest that the PRC is shifting its stance on the legality of surveillance operations in the EEZ, its actions nearly a year after RIMPAC 2012 towards USNS *Impeccable* on June 21, 2013, indicate it has not fully embraced this norm.²⁹¹ Increased PRC maritime projection outside of Asia provides opportunities for broader cooperation or alternate venues for adversity, revealing a trend that can either decrease or increase the likelihood of future surveillance confrontations, depending on the nature of these activities.

5. Growing PRC-U.S. Military To Military Relations

A fifth recent trend is improving PRC-U.S. military to military relations, which may reduce the likelihood future surveillance confrontations. The 2013 PRC Defense White Paper states: "China's armed forces work to promote dialogue and cooperation on maritime security...international merchant shipping protection and disaster relief operations, [and] conduct joint exercises and training with foreign counterparts."²⁹² Several recent cooperative initiatives support these statements. The U.S. Navy reported that on August 24 and 25, 2012, the "guided-missile destroyer USS *Mason* (DDG 87) participated in a counter-piracy exercise in the Gulf of Aden with elements of the Chinese People's Liberation Army (Navy)."²⁹³ Following this exercise, on September 18, 2012, Secretary of Defense Panetta announced "the United States Navy will invite China to

²⁹⁰ Ibid., 39.

²⁹¹ Gertz, "Inside the Ring."

²⁹² Fu, "The Diversified Employment."

²⁹³ Rob Aylward, "U.S., China Conduct Counter Piracy Exercise," *Navy News Service*, August 26, 2013, http://www.navy.mil/submit/display.asp?story_id=76157; Hendrick Simoes, "U.S. Navy Seeks More Cooperation with China in Counter-piracy Exercise," *Stars and Stripes*, August 26, 2013, <http://www.stripes.com/news/navy/us-navy-seeks-more-cooperation-with-china-in-counter-piracy-exercise-1.237354#.Uzx8-ty4kII>.

send a ship to participate in the RIMPAC 2014 exercise;”²⁹⁴ and “he hopes China’s participation in RIMPAC 2014 will build on the positive momentum generated by a counterpiracy exercise the two nations took part in last week in the Gulf of Aden.”²⁹⁵ On June 8, 2013, PRC State Councilor Yang Jiechi accepted the invitation to RIMPAC 2014 following a meeting with President Obama.²⁹⁶ Additionally, on September 9, 2013, “as part of a broader advancement in cooperation between the United States and China, the guided-missile cruiser USS *Lake Erie* (CG 70) and the People’s Liberation Army-Navy [PLAN] participated in training scenarios off the coast of Oahu, Hawaii.”²⁹⁷ Finally, the *Navy Times* reported that the PRC adopted CUES on April 22, 2014, a mechanism that may help avert maritime confrontations, which is “not legally binding, [but] China’s adoption of the code indicates its increased willingness to engage with its neighbors.”²⁹⁸ These events indicate improving PRC-U.S. military to military relations, decreasing the likelihood of future surveillance confrontations.

C. CONCLUSION

Previous PRC-U.S. surveillance confrontations were shaped by the development of PRC-U.S. maritime relations, the specific circumstances of each incident, and the surrounding geopolitical settings. The investigation of recent maritime developments enables a projection of this element of previous encounters, helping to predict the likelihood of future recurrences. Five recent maritime trends and their likely effects upon surveillance confrontations include: the uncertain influence of U.S. strategic rebalance,

²⁹⁴ Karen Parrish, “Panetta: Navy Will Invite China to Pacific Rim Exercise,” *American Forces Press Service*, September 18, 2012, <http://www.defense.gov/news/newsarticle.aspx?id=117902>.

²⁹⁵ Ibid.

²⁹⁶ Yang Yi, “China to Attend RIMPAC 2014: State Councilor,” *Xinhua*, June 9, 2013, http://news.xinhuanet.com/english/china/2013-06/09/c_132443566.htm

²⁹⁷ Kenneth Hendrix, “USS *Lake Erie*, Chinese Ships Conduct Search and Rescue Training,” *Navy News Service*, September 10, 2013, http://www.navy.mil/submit/display.asp?story_id=76460; “3 Chinese Ships, 680 Officers and Sailors Visit Hawaii for Rare Exercise with U.S. Navy,” *Fox News*, September 6, 2013, <http://www.foxnews.com/us/2013/09/06/3-chinese-ships-680-officers-and-sailors-visit-hawaii-for-rare-exercise-with-us/>.

²⁹⁸ Christopher Bodeen, “Asia-Pacific Navies Sign Communication Agreement,” *Navy Times*, April 22, 2014, <http://www.navytimes.com/article/20140422/NEWS08/304220033/Asia-Pacific-navies-sign-communication-agreement>.

the negative influences of PRC peripheral maritime tensions, the enhanced effectiveness of the PRC's maritime assets from their greater institutional integration, the mixed potentials of PRC maritime projection outside of Asia, and the positive influences of growing PRC-U.S. military to military relations. The interpretation, emphasis, and guidance of each of these trends by both the PRC and U.S. will largely determine the bilateral maritime relationship, which in turn is likely to influence the future of surveillance confrontations. Monitoring maritime developments also enables the U.S. to identify adverse trends, so it can enact appropriate military mitigation strategies during future vulnerability periods, which are discussed in the following chapter.

X. U.S. MILITARY RECOMMENDATIONS

A. INTRODUCTION

Following the 2009 surveillance confrontations, several policy options were explored, including: alternative surveillance activities, reduction of surveillance, and a PRC-U.S. INCSEA agreement; however, these solutions were assessed for broad application.²⁹⁹ Monitoring the trends of recent maritime developments and identifying future periods vulnerable to political challenge enables adaptive responses towards the reemergence of surveillance confrontations. This chapter develops a range of military options that are specifically applicable during these future vulnerability periods. While it is uncertain if these encounters will recur, or that they will follow previous patterns, preparing a comprehensive plan consisting of appropriate strategic, operational, and tactical responses enables military planners to ideally shaped forces to hedge against this possibility.

B. MILITARY IMPLICATIONS

Exposing the varied drivers of surveillance confrontations undercuts previous assertions that these encounters are wholly the result of local commanders' initiatives, irrational aggression, military expansionism, or PLAN operational sensitivities. The primary implication of surveillance confrontations originating above local commanders is that these encounters have geopolitical origins; therefore, they may transpire regardless of military to military relations or other conventional mitigation strategies. Traditional approaches to these incidents have revolved around bilateral and multilateral mechanisms and military discussions, evidenced by President Obama's March 12, 2009 stressing of "the importance of raising the frequency of the U.S.-China military-to-military dialogue in order to avoid future incidents."³⁰⁰ Current military discussion mechanisms and bilateral and multilateral measures include: UNCLOS, ICAO, COLREGS, CUES, and the MMCA; however, all of these mechanisms are predicated on a mutual desire for

²⁹⁹ O'Rourke, "Maritime Territorial and Exclusive," 49–50.

³⁰⁰ "Obama Calls for Improved."

cooperation in the maritime domain. Although these measures may be useful to reduce PRC-U.S. incidents under normal conditions, when surveillance confrontations are driven by geopolitical factors, these measures are less effective because an underlying intention to create confrontation exists. Exploring a range of military options applicable during vulnerability periods enables the U.S. Navy to preemptively adapt its forces, which can potentially reduce confrontations, collisions, escalation, PRC-U.S. relational damage, and conflict from these encounters.

C. ARRAY OF U.S. MILITARY OPTIONS

Military solutions to surveillance confrontations can be found on the strategic, operational, and tactical levels. After assessing current trends in maritime relations and identifying vulnerability periods, a comprehensive plan can be constructed from several options across these levels. This plan should align to national objectives regarding the overarching geopolitical circumstances. Each option is weighed for costs and benefits in support of this plan. Theatre planners, aware of political objectives, and armed with real-time information are best suited to create a comprehensive plan for future surveillance confrontation vulnerability periods.

1. Strategic Options

The strategic options available to prepare for vulnerability periods involves choosing between strategic suspension of military surveillance and the status quo; either of which is supportable by supplemental strategic measures. The effects of these options are closely tied to the political atmosphere, and likely require close coordination with civilian leaders. The costs and benefits of these options will be contrasted to weigh their viability in a comprehensive plan.

1. *Strategic surveillance suspension* involves ceasing surveillance operations during vulnerability periods.

Temporary suspension of surveillance is not a surrender of freedom of navigation, but a temporary gap in its application. Some benefits of this decision are the prevention of surveillance confrontations, safety of forces, and avoidance of escalation. Some costs of

this decision are gaps in surveillance, possible PRC perceptions of U.S. concessions, and a chance that the PRC may pursue more adverse political strategies.

2. *Maintaining the status quo* is also an option available during vulnerability periods, and is subject to an inverse cost-benefit calculation.

The status quo entails continuing maritime surveillance regardless of overarching PRC-U.S. relational dynamics. Some costs of this decision are the heightened potential for surveillance confrontations during vulnerability periods, danger to forces, and possible escalation. Some benefits of this decision are uninterrupted surveillance operations, maintenance of freedom of navigation norms, and the possible prevention of more adverse political strategies.

3. *Supplemental strategic measures* are also available regardless of the strategic option selected, which may discourage surveillance confrontation, its escalation, and conflict.

These measures focus on PRC-U.S. cooperative endeavors during vulnerability periods, which could positively refocus bilateral pressures and create mechanisms to serve as alternate, less costly signals to alleviate geopolitical tensions. Some activities that could be scheduled during vulnerability periods include: additional PRC-U.S. joint exercises, joint humanitarian operations, or joint counter-piracy operations. One example of this option is a joint PRC-U.S. maritime exercise aligned to major bilateral diplomacy, particularly following U.S. presidential transitions. These activities could supplement either temporary strategic suspension or the status quo, and carry the additional benefit of enhanced bilateral cooperation during relatively unstable periods in PRC-U.S. relations. If historical tensions are present during future vulnerability periods, these exercises might also be canceled or shortened by either side as an understood replacement signal that would initiate bilateral policy discussions—a signal that does not put any U.S. or PRC forces in danger, or possibly lead to escalation. Some costs of these activities involve additional assets for these ventures, and overcoming current barriers to PRC-U.S. military cooperation. Susan Lawrence highlights these barriers:

Further development of the [PRC-U.S.] military-to-military relationship is subject to restrictions imposed by Congress. The National Defense Authorization Act (NDAA) for Fiscal Year 2000 (P.L. 106–65) bars

exchanges or contacts with China's military that include 'inappropriate exposure' to a range of subjects, including surveillance and reconnaissance operations. The provision remains a major irritant in the bilateral relationship, with Chinese authorities arguing that it signals U.S. ill will. For its part, China remains wary that closer ties will expose vulnerabilities in its weaker force. It has also been suspicious of the intentions behind the U.S. policy of rebalancing to the Asia-Pacific.³⁰¹

Although specific limitations exist, several exercises involving PRC and U.S. forces have recently been scheduled that fall outside of these restrictions, including joint disaster exercises and RIMPAC 2014; therefore, it may be an ideal time for PRC-U.S. cooperative military ventures that are shaped around this dynamic.³⁰²

Strategic surveillance suspension and the status quo are two options that should be assessed in relation to U.S. political objectives. Supplemental strategic measures are also available under either option to engage the PRC during future vulnerability periods. Selection between these options should be coordinated with the overarching political posture to synchronize U.S. national responses towards this future dynamic.

2. Operational Options

If the strategic status quo is selected, several operational options remain available to military planners, which are less dependent upon the political landscape to mitigate surveillance confrontations. These options involve adjusting the shape and dispositions of surveillance assets employed during vulnerability periods. Unmanned aerial vehicles, submarine forces, unmanned underwater vehicles, prepositioned escorts, escorted operations, and the operational status quo are all explored as potential responses to this future dynamic.

³⁰¹ Susan V. Lawrence, "U.S.-China Relations: An Overview of Policy Issues," Congressional Research Service (Washington, DC: Library of Congress, August 1, 2013), 16.

³⁰² Oskar Garcia, "China, U.S. Armies to Begin Joint Disaster Exercise," *Military Times*, November 11, 2013, <http://www.militarytimes.com/article/20131111/NEWS/311110028/China-U-S-armies-begin-joint-disaster-exercise>; Zachary Keck, "China, RIMPAC, and Containment," *The Diplomat*, April 3, 2013, http://thediplomat.com/2013/04/china-rimpac-and-containment/?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A%20the-diplomat%20%28The%20Diplomat%20RSS%29.

1. *Unmanned aerial vehicle* replacements for airborne surveillance assets are the first option available during vulnerability periods.

A cost of this option is the reduction of surveillance capabilities, which may eventually be overcome through technological improvements. A benefit of this option is the protection of aircrew.

2. *Submarine surveillance* replacements for USNS surveillance vessels are another option available during vulnerability periods.

Some costs of this option are a temporary removal of visible freedom of navigation activities and a reduction in surveillance assets and capabilities. Some benefits of this decision are the prevention of harassment while maintaining some surveillance capabilities.

3. *Unmanned underwater vehicles* are an operational technology that could also be further developed for use during vulnerability periods.

The costs and benefits of this option are similar as for the employment of submarine forces, with the additional cost of technological development and production, and the additional benefit of less danger to personnel.

4. *Prepositioned escorts* are another option available during vulnerability periods.

This option provides a rapid response capability by positioning armed airborne and/or surface assets in the proximity of surveillance activities for rapid responses, while avoiding potentially instigative escorted surveillance operations. Some costs of this option are the requirements for additional prepositioned escort assets and the potential for the PRC's misinterpretation of these activities. Some benefits of this option are rapid U.S. responses, which may deter confrontation and prevent escalation.

5. *Escorted operations* are another option available during vulnerability periods.

This option is based on a need to continue surveillance operations, while denying the PRC's ability to use these encounters for geopolitical objectives. Applying this option entails fighter aircraft escorting airborne surveillance and/or surface forces escorting surveillance operations during vulnerability periods. Some costs of this option entail the

employment of extra assets, perceived PRC militarization of surveillance operations, potential PRC misinterpretations of escalation, and the potential emergence of alternate, more adverse strategies. Some benefits of this option are the denial of surveillance confrontations and the protection of surveillance assets during vulnerability periods.

6. *The status quo* is the final option available during vulnerability periods.

This option entails continuing surveillance operations, unchanged in shape or disposition. Some costs of this option are the continued exposure of surveillance assets to heightened danger during vulnerability periods, potential escalation, and the PRC's continued application of surveillance confrontations for geopolitical purposes. Some benefits of this option include the maintenance of freedom of navigation and surveillance norms, and preservation of these venues to relieve geopolitical pressures, possibly preventing more adverse strategies.

If the strategic status quo is chosen, several operational options are available to protect surveillance operations during vulnerability periods. Operational options also may need to be coordinated with political counterparts to synchronize national responses. Many of these options are not exclusive, and a comprehensive strategy may involve some combination of these or additional options yet to be developed.

3. Tactical Options

If the strategic and operational status quos are both selected, several tactical options are available to prepare surveillance assets for vulnerability periods. Tactical options consist of avoiding harassment, controlling harassment, and rapidly reporting harassment. These three options will be discussed for further development and may be useful to mitigate any surveillance confrontations regardless of when they occur.

1. *Avoidance of harassment* by surveillance vessels and aircraft is a tactical option that may limit future surveillance confrontations.

This option involves avoiding areas where opposing units are located, particularly during vulnerability periods. This option is unlikely to be completely effective because the PRC's maritime assets have access throughout contentious areas and surveillance assets are generally slower than harassing forces.

2. *Controlling harassment* is another tactical option that may mitigate future surveillance confrontations.

This option involves developing new equipment and procedures to manage these encounters. New equipment may include non-lethal vessel modifications, such as improved fire hoses, safety bumpers, enhanced lights, sonic weapons, reinforced cabins, force protection measures, or other innovations that could be developed by subject matter experts or the crews of surveillance assets. New tactical response procedures may also be necessary for standardization across surveillance assets. Any options that fall into this category must be carefully assessed to prevent unintended escalation.

3. *Rapid confirmation* of harassment is the final tactical option available as a response to future surveillance confrontations.

This option entails enhanced capabilities to transmit information back to high-level commanders, political leaders, and media sources. This measure enables surveillance confrontations to be rapidly understood and published to acknowledge the PRC's underlying geopolitical drivers, which may prevent further escalation or accidents. This option must be assessed to ensure it is aligned with U.S. political objectives, and does invite additional surveillance confrontations.

If the strategic and operational status quos are both selected, several tactical options are available to protect surveillance activities during vulnerability periods. These options include avoiding, controlling, and rapidly reporting harassment activities. These options are less connected to the political atmosphere; however, they should be assessed to ensure they do not escalate harassment into broader conflict.

D. CONCLUSION

Understanding that PRC-U.S. surveillance confrontations are more likely to occur during periods vulnerable to issue elevation demands innovative military responses to this complex problem. It is vital that military planners mitigate the hazards of these activities to prevent recurrences of the near EP-3 crash in 2001, through strategic, operational, and tactical innovations. The recommendation of this analysis is for combatant, theatre, and fleet planners to use real time information, to develop a

comprehensive plan prior to these vulnerability periods. This plan should be aligned with national political objectives, shaping forces to most effectively mitigate, deter, or prevent the adverse consequences of these encounters. To accomplish this, the plan should integrate options from the strategic, operational, and tactical levels, consider other innovative measures, and anticipate potential adaptive strategies by the PRC. This plan should also balance the need to protect U.S. forces, national interests, and long-term PRC-U.S. relations. An example of a comprehensive plan for future vulnerability periods could include: strategically minimized surface and manned airborne surveillance, concurrent PLAN engagement activities, pre-positioned responsive escorts, and tactically and procedurally enhanced U.S. surveillance assets. Evaluating, preparing, and implementing a comprehensive plan prior to future vulnerability periods may avert surveillance confrontations, escalation, and conflict—protecting U.S. military, diplomatic, and national interests.

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